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Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, there is nothing more wonderful than the smile of Your affirmation. We say with John Hancock, ''By the smile of heaven I am a free and independent man.'' We praise You that You have smiled with providential care on our beloved Nation. Your smile of joy is the source of our lasting happiness. You have given us freedom to live as independent men and women because we are dependent on You. May this be a day to count our blessings, so that every moment of this day may be filled with praise and gratitude for all You do for us. We even praise You for our problems because we know that You will help us solve them in a way that will bring us closer to You. Most of all, we seek Your smile over our efforts to change whatever contradicts Your will in America and registers consternation on Your face. Thank You for Your corrective judgment and, when we change or correct social injustice, thank You for Your amazing grace. We claim Your benediction, ''*The Lord bless you and keep you. The Lord make his face shine upon you and be gracious to you. The Lord lift up His countenance upon you, and give you peace.*''—Numbers 6:24–26. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator MCCAIN, is recognized.

SCHEDULE

Mr. MCCAIN. Today the Senate will immediately begin 2 hours of debate on S. 96, the Y2K legislation. Following that debate, the Senate will stand in recess until 2:15 p.m. so that the weekly party conferences can meet. When the Senate reconvenes at 2:15, a series of stacked votes will begin. The first votes in order will be on or in relation to the pending amendments to the Y2K bill, followed by a vote on final passage.

After the disposition of the Y2K bill, a cloture vote on the Social Security lockbox issue will take place. If cloture is not invoked on the lockbox legislation, a cloture vote on H.R. 1664 regarding the steel, oil, and gas appropriations bill will be in order.

Further, if cloture is not invoked on H.R. 1664, it is the intention of the majority leader to resume debate on the energy and water appropriations bill. It is hoped that a vote on final passage to that appropriations bill can be completed by this evening.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, leadership time is reserved.

Y2K ACT

The PRESIDING OFFICER. Under the previous order, there will now be 2 hours of debate equally divided for closing arguments on S. 96, which the clerk will report.

The legislative assistant read as follows:

A bill (S. 96) to regulate commerce between and among the several States by providing for its orderly resolution of disputes arising out of computer-based problems related to processing data that includes a two-digit expression of the year's date.

The Senate resumed consideration of the bill.

Pending:

McCain Amendment No. 608, in the nature of a substitute.

Sessions Amendment No. 623 (to Amendment No. 608), to permit evidence of communications with State and Federal regulators to be admissible in class action lawsuits.

Gregg/Bond Amendment No. 624 (to Amendment No. 608), to provide for the suspension of penalties for certain year 2000 failures by small business concerns.

Mr. MCCAIN. Mr. President, after discussion with the distinguished Democrat manager, Senator HOLLINGS, I would like to modify the unanimous consent agreement to allow Senator HOLLINGS and I 3 minutes each before the vote on final passage is taken. I will withhold that request to clear it on both sides. But I think it is appropriate after we have votes on amendments that Senator HOLLINGS and I be allowed to make brief statements before the final vote on this very important issue. So I will withhold that unanimous consent request, but I intend to make it at the appropriate time.

Also for the information of my colleagues, I believe we may not require a vote on the Sessions amendment—I believe we are working that out on both sides—and we may not require a vote on the Gregg amendment as well, although neither have been worked out on both sides. We are attempting to do that. So it is entirely possible that at 2:15 we would be moving to final passage.

I note that it is acceptable to the other side, so I ask unanimous consent to modify the unanimous consent request, that Senator HOLLINGS be allowed 4 minutes and I be allowed 4 minutes prior to the vote on final passage of the pending Y2K legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I believe it is in the unanimous consent agreement that there be 2 hours equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MCCAIN. Mr. President, I yield myself whatever time I may consume.

Mr. President, we are about to culminate the work of many months: investigation, drafting, negotiation, and compromise. The vote we take today

will set the tone for the Senate in the new millennium. The Senate will either rise to the challenge that the Y2K problem poses and provide a proactive solution, or it will allow traditional political loyalties to leave us in reactive mode after a problem exists. I am optimistic that most of my colleagues recognize the importance of providing a balanced approach to avoiding a Y2K litigation quagmire, to preserving the nation's economy and providing support to the creativity and ingenuity that makes this country the world's leader in technology.

I want to remind my colleagues that many compromises have been made in this bill since it passed out of the Commerce Committee. It is certainly not as strong a bill as that passed by the House. These compromises have been made in order to get a bill that can have bipartisan approval and can be signed into law. We cannot play politics with this important issue—we must ensure that this legislation becomes law. On the other hand, I have stated clearly that I will not be party to passing a mere facade. Unless we really accomplish something, we cannot take credit for doing so. Even with all of the compromises we have made to get the legislation to this point, I firmly believe that the legislation will be effective.

Before we vote, I want to walk through the provisions of the legislation and correct some misconceptions as to how this bill would operate. With all of the rhetoric of the past several days, I think there has been some concern about the operation of the legislation, which I want to allay.

First, it is critical to remember that this legislation addresses Y2K failures which may be encountered by every industry, business, and consumer in the country. This legislation is not designed to protect the high tech industry or provide it immunity. The intent of the legislation is to provide a balance and orderly system for the resolution of Y2K failures in a manner that is fair, ensures that real problems experienced by consumers and businesses alike are addressed quickly, without litigation whenever possible, and that the judicial system is not overrun with opportunistic and creative lawsuits. It is not the redress of real problems that this legislation seeks to limit.

It is important to keep in mind that this legislation is supported by the broadest array of interests I have ever seen in support of legislation. They represent companies which will be plaintiffs, those who will be defendants, and those who will likely be both. These varied interests have debated among themselves many of the points raised on the floor of the Senate regarding the balance between plaintiffs and defendants. The compromises made since the bill was passed from the Commerce Committee also have refined the balance. What remains today to be voted upon is a good piece of legislation for every segment of the nation's economy.

Let me also reiterate that the Y2K date code problem is not simple to correct. Millions of lines of code are involved, many in outdated languages or in applications that have been revised and upgraded more than once or twice. Multiple means of correcting the date codes adds to the challenge, as does the rare occurrence of leap year in the first year of a new century. Uncertainty as to all the affected embedded chips, the interface of the various corrections, and the complexities of solving the date code without affecting other aspects of a date program, all make this a complex problem requiring massive dedication of technical ingenuity to correct. Although the opponents of this legislation would like the country to think the solution is simple and could have and should have been fixed a long time before now, it is not so simple.

Businesses in every industry will spend hundreds of billions of dollars to correct the problem. Estimates are that the costs in the United States alone will be between $100 and $200 BILLION—without litigation costs. There will undoubtedly be shifts of costs from one business to another, from one industry to another, from consumer to manufacturer, as the ramifications of the problem are better known. The purpose of this legislation is to provide rules and mechanisms for this process of cost shifting; rather than focusing on blame, to focus on solutions, prevention and remediation of real problems, rather than anticipated or perceived problems.

Let me review some of the most important aspects of S. 96:

First, I want to emphasize that this legislation does not affect personal injury cases. We have done nothing to alter the current law regarding how personal injury or wrongful death claims would be handled.

Second, let me state clearly that this legislation sunsets. It applies only to problems that occur within 3 years. This legislation will not change American law for all time.

The notice provisions provide time for the potential plaintiffs and defendants to resolve Y2K problems without litigation. The notice period is 30 days. Only if the defendant responds by fixing the problem is another 60 days provided to allow remediation to be completed. If there is no response, or if the defendant declines to fix the problem, the plaintiff can sue on the 31st day. The emphasis here is on providing notice that there is a problem so that it can be fixed. Most people want their equipment to work—they don't want a lawsuit. This provision ensures that the first order of business is to offer an opportunity to fix the problem. In no way does this provision deny someone's right to sue. Instead, it should speed up resolution of problems.

A requirement for pleading material injury ensures that the cases which are litigated are those in which there is real injury. This section will not cause problems for consumers or businesses with actual Y2K-related failures. It will cause a problem for plaintiffs solicited for class actions where no injury has occurred, as in the increasingly famous California case brought by Tom Johnson.

To remind my colleagues, that is the case brought against six retailers in California, not to remedy any failure or injury, but to disgorge profits made over the past 5 years from selling unspecified products which may or may not be Y2K compliant. The clear intent of this litigation is a large settlement. That kind of profiteering litigation is the kind of litigation which S. 96 seeks to curb. Our judicial system should not be clogged with possible Y2K failures, nor novel complaints to ensure the payment of lottery-type settlements and attorneys' fees.

The economic loss rule further ensures that contract actions will not be ''tortified.'' Why is this important? Historically contract actions have provided as remedy the ''benefit of the bargain,'' but not punitive damages. The ''benefit of the bargain'' may include lost profits or similar compensatory damages to ensure that the plaintiff is made whole. By turning contract actions into tort actions, aggressive attorneys can claim the more lucrative punitive damages which are not compensatory in nature and allow a windfall from which to pay attorneys' fees.

However, banning the ''tortification'' of contracts does not leave a consumer without remedies for real problems. Principles of contract law govern many situations where only a verbal contract, not a written contract, exists. Additionally, the legislation does not affect rights under State Uniform Commercial Code and consumer protection laws.

Punitive damage awards have been limited for small businesses, but not for large businesses, in recognition that small companies are especially vulnerable to an onslaught of litigation. No caps are applicable, however, if the defendant has intentionally caused injury, since such conduct is egregious and should not be protected. These modest limitations also prevent frivolous lawsuits. This is especially reasonable here where we have eliminated personal injury claims, thus the damages suffered are all economic in nature.

We have preserved contracts as written to ensure that preexisting contractual relationships are maintained. The parties will receive the full benefit of their bargain. When the terms of a contract are in conflict with this legislation, the contract prevails. There is no reason for attorneys to say, as some trial lawyers have, that the legislation would alter a businessman's right to sue a vendor who does not perform a contract because of a Y2K failure. He can. But the legislation provides a notice period in which the vendor can, and should, remedy the problem without the time and expense of litigation.

A critical provision of the legislation provides that where litigation is necessary, the defendants will pay for their proportionate share of the damage. This is fair. A defendant pays for the damage he caused. It also eliminates the incentive to sue the ''deep pockets'' who may not be primarily responsible for the problem. Exceptions are provided for small plaintiffs who should not be at risk for collecting a damage award, and for situations where a defendant, because of particularly egregious behavior, should bear the burden of collecting from other defendants.

Those who oppose the bill have alleged that these provisions will actually deter responsible companies from taking necessary action to prevent Y2K failures. The facts do not support this claim. All one has to do is take a quick look at the year 2000 related Internet links to see that massive efforts are already being made to make information about Y2K problems and solutions available.

A recent EDS, Electronic Data Systems, ad highlights its free of charge, on-line data base that lists over 230,000 products from more than 5,000 vendors, with links to the vendors, instructions for making products Y2K compliant, and links to other related sites. The ad claims that the site receives 56,000 hits a day.

Both the EDS site and other sites provide step-by-step checklists and resource information for solutions. Why is this information being made available? Because the United States is the world's leader in technology. One of the reasons for the high-tech industry's success is that it has responded well to the marketplace. Preventing Y2K problems, letting other businesses and industries know about the problem and how to solve it, make good business sense.

If so much work is going into solving the Y2K problem then why do we need this legislation?

As I have stated before, the cost of solving the Y2K problem is staggering. Experts have estimated that the businesses in the United States alone will spend $50 billion in fixing affected computers, products and systems. But what experts have also concluded is that the real problems and costs associated with Y2K may not be the January 1 failures, but the lawsuits filed to create problems where none exist. An article in USA Today on April 28 by Kevin Maney sums it up:

. . . Experts have increasingly been saying the Y2K problem won't be so bad, at least relative to the catastrophe once predicted. Companies and governments have worked hard to fix the bug. Y2K-related breakdowns expected by now have been mild to nonexistent. For the lawyers, this could be like training for the Olympics, then having the games called off.

. . . The concern, though, is that this species of Y2K lawyer has proliferated, and now it's got to eat something. If there aren't enough legitimate cases to go around, they may dig their teeth into anything. . . . In other words, lawyers might make sure Y2K is really bad, even if it's not.

The sad truth is that litigation has become an industry. While many fine attorneys represent their clients ethically and in a scrupulous manner, litigation has become big business for a segment of the trial bar.

A panel of experts predicted at an American Bar Association convention last August that the legal costs associated with Y2K will exceed that of asbestos, breast implants and tobacco and Superfund combined. A reported 500 law firms across the country have put together Y2K litigation teams.

As we have already seen in the Tom Johnson case in California, where no real injury or damage exists, novel theories are pursued to divert attention from prevention and remediation to defending litigation. Time and resources that could be spent on improving technology are diverted to litigation and settlement costs and attorneys' fees.

During a hearing on this legislation in the Commerce Committee testimony was presented from two small businessmen who were concerned, legitimately, about problems they had faced with Y2K failures, or anticipated failures. The esteemed Ranking Member of the Committee has often mentioned their testimony on the floor. Both expressed concern that they would be prevented by this legislation from bringing suit, or from being compensated for their damages. In both instances, not only would this legislation not elimate their right to sue, it might help prevent the need to sue. The notice provisions and remediation period would assure prompt attention and resolution to their complaints.

We cannot lose sight of the bigger picture in terms of cost of litigation. The costs of both bringing and defending lawsuits are passed on by the businesses and industries into higher prices and cutbacks in jobs or new orders. The impact on our economy of an avalanche of frivolous lawsuits will be felt by all of us. If we do not curtail litigation costs, we will all pay a price in higher prices for computer and software goods, higher prices for every other retail good with embedded chips, higher prices for insurance, and slower, more expensive increases in technological advances. Money that is spent on litigation is money that is not spent on creating new jobs, providing better incomes, retaining our nation's competitive edge.

Mr. President, in closing, let me urge my colleagues to support this legislation. It is bipartisan, and again I want to thank Senators WYDEN and DODD for all they have done to make it so. It is reasonable and practical. It presents a good balance between the interests of plaintiffs and defendants and will prevent needless and costly litigation. It will assist in preserving the best economy our country has ever enjoyed. I will encourage the continued prosperity and leadership of our nations' technology industries as we enter the new millennium. It will prevent our nation's courts from being clogged for years with litigation that offers no one prosperity except for the lawyers. The emphasis in approaching the Y2K problem must be on prevention, remediation and prompt resolution of Y2K problems. This legislation meets those goals.

The coalition of support for this bill is compelling. This legislation is important not only to big business and high tech, but to small businesses, retailers, wholesalers, insurance, consultants—virtually every segment of the business community.

Time is of the essence. For this legislation to provide the direction and impetus desired to assure prevention and remediation of Y2K problems, it must be passed now. We have spent several months getting to this point. Let me be clear. This legislation will make a difference. If we don't pass it, we will be failing to provide leadership for our country. I fear that a year from now we will again turn to this issue, but only after an avalanche of lawsuits has stymied the economy. Support this legislation and be part of the Y2K solution.

I again thank Senators DODD and WYDEN and many others for all of their efforts. I also want to congratulate Senator HOLLINGS, my friend from South Carolina, for an impassioned and very compelling argument in opposition to this legislation. I have always enjoyed debating him on a variety of issues, and I know no one who is better informed.

I reserve the remainder of my time.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. I thank the Chair, and I thank the distinguished chairman of the committee.

He and I work very closely together. The chairman of our committee has gained a reputation against charades and frauds and make-believes and pork and all these things. That is why it doesn't please this particular Senator that he would take this one on.

The truth of the matter is that, generally speaking, it is a nonproblem. If there is a problem, the best of the best, Intel, has a web page we lifted just yesterday afternoon entitled ''Updating Your Components, Updating Your PC Hardware.''

''If you have determined that your PC hardware is not capable of handling the century rollover''—so forth and so on, about how to manually reset and install a BIOS upgrade or patch, if available.

1. Manually reset the date after December 31, 1999, the first time you turn on your PC or laptop after December 31, 1999, and before you use any software applications, simply reset the operating system date on the computer. For nearly all PCs and laptops, this is the easiest and safest way to ensure the computer will handle dates properly in the year 2000. Once reset, the PC hardware clock will maintain the correct date when powered off and on or rebooted.

2. Install a BIOS upgrade or ''patch,'' if available if you wish to ensure that your PC hardware is capable before the new millennium begins. You may want to install a BIOS upgrade or software ''patch'' before the end of 1999. Some PC hardware manufacturers and BIOS and software vendors are offering free BIOS upgrades.

I was wondering, Mr. President, about the time, the minimum amount of time, as I understand, and the cost.

I lifted, again, in searching back in 1998, an article entitled, ''Tool fixes PC Y2K glitch,'' priced at $94.95.

We are hearing millions and billions and everything else, Chick Little, the sky is falling.

A lot of people still don't seem to realize that even though they purchase their PC in 1998, it doesn't mean that the system is compliant. There are still PCs out there that are not fully compliant. Tools like the [PCfix2000] provide users with a solution for addressing this.

Then they go on to describe this $94.95 fix.

I noticed in the month of March, on March 10 of this year:

The easiest way to prepare your PCs for the new millennium is with Y2K diagnostic software. We chose five sub-$50 programs that both check your computer for year 2000 compliance and solve any problems they find: Check 2000 PC Deluxe, IntelliFix 2000, Know2000, Norton 2000, and 2000 Toolbox. We scrutinized each program and, finally, chose a winner. (Mac owners: Your machines are, and always have been, free of the Y2K bug.)

That interested me, because we only just last week had Michael Dell of Dell Computers, the largest producers of computers in the United States, and he had advertised with the Securities and Exchange Commission that all Dell computers were Y2K compliant.

I ask unanimous consent, once again, to print this March issue of Business Week in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Mar. 1, 1999]

BE BUG-FREE OR GET SQUASHED

(By Marcia Stepanek, Ann Therese Palmer, and Michael Shari)

Lloyd Davis is feeling squeezed. In 1998, his $2 million, 25-employee fertilizer-equipment business was buffeted by the harsh winds that swept the farm economy. This year, his Golden Plains Agricultural Technologies Inc. in Colby, Kan., is getting slammed by Y2K. Davis needs $71,000 to make his computer systems bug-free by Jan. 1. But he has been able to rustle up only $39,000. His bank has denied him a loan because—ironically—he's not Y2K-ready. But Davis knows he must make the fixes or lose business. ''Our big customers aren't going to wait much longer,'' he frets.

Golden Plains and thousands of other small businesses are getting a dire ultimatum from the big corporations they sell to: Get ready for Y2K, or get lost. Multinationals such as General Motors, McDonald's, Nike, and Deere are making the first quarter—or the second at the latest—the deadline for partners and vendors to prove they're bug-free. A recent survey by consultants Cap Gemini America says 69% of the 2,000 largest companies will stop doing business with companies that can't pass muster. The National Federation of Independent Business figures more than 1 million companies with 100 workers or less won't make the cut and as many as half could lose big chunks of business or even fail.

WEAK LINKS

Cutting thousands of companies out of the supply chain might strain supply lines and could even crimp output. But most CEOs figure it'll be cheaper in the long run to avoid bugs in the first place.

Some small outfits are already losing key customers. In the past year, Prudential Insurance Co. has cut nine suppliers from its ''critical'' list of more than 3,000 core vendors, and it continues to look for weak links, says Irene Dec, vice-president for information systems at the company. At Citibank, says Vice-President Ravi Apte, ''cuts have already been made.''

Suppliers around the world are feeling the pinch. Nike Inc. has warned its Hong Kong vendors that they must prove the're Y2K ready by Apr. 1. In India, Kishore Padmanabhan, vice-president of Bombay's Tata Consultancy Services, says repairs are running 6 to 12 months behind. In Japan, ''small firms are having a tough time making fixes and are likely to be the main source of any Y2K problems,'' says Akira Ogata, general research manager for Japan Information Service Users Assn. Foreign companies operating in emerging economies such as China, Malaysia, and Russia are particularly hard-pressed to make Y2K fixes. In Indonesia, where the currency has plummeted to 27% of its 1977 value, many companies still don't consider Y2K a priority.

A December, 1998 World Bank survey shows that only 54 of 139 developing countries have begun planning for Y2K. Of those, 21 are taking steps to fix problems, but 33 have yet to take action. Indeed, the Global 2000 Coordinating Group, an international group of more than 230 institutions in 46 countries, has reconsidered its December, 1998 promise to the U.N. to publish its country-by-country Y2K-readiness ratings. The problem: A peek at the preliminary list has convinced some group members that its release could cause massive capital flight from some developing countries.

Big U.S. companies are not sugarcoating the problem. According to Sun Microsystems CEO Scott G. McNealy, Asia is ''anywhere from 6 to 24 months behind'' in fixing the Y2K problem—one he says could lead to shortages of core computers and disk drives early next year. Unresolved, says Guy Rabbat, corporate vice-president for Y2K at Solectron Corp. in San Jose, Calif., the problem could lead to price hikes and costly delivery delays.

Thanks to federal legislation passed last fall allowing companies to share Y2K data to speed fixes, Sun and other tech companies, including Cisco Systems, Dell Computer, Hewlett-Packard, IBM, Intel, and Motorola, are teaming up to put pressure on the suppliers they judge to be least Y2K-ready. Their new High-Technology Consortium on Year 2000 and Beyond is building a private database of suppliers of everything from disk drives to computer-mouse housings. He says the group will offer technical help to laggard firms—partly to show good faith if the industry is challenged later in court. But ''if a vendor's not up to speed by April or May,'' Rabbat says, ''it's serious crunch time.''

WARNINGS

Other industries are following suit. Through the Automotive Industry Action Group, GM and other carmakers have set Mar. 31 deadlines for vendors to become Y2K-compliant. In March, members of the Grocery Manufacturers of America will meet with their counterparts from the Food Marketing Institute to launch similar efforts. Other companies are sending a warning to laggards—and shifting business to the tech-savvy. ''Y2K can be a great opportunity to clean up and modernize the supply chain,'' says Roland S. Boreham, Jr., chairman of the board of Baldor Electric Co. in Fort Smith, Ark.

In Washington, Senators Christopher S. Bond (R-Mo.) and Robert F. Bennett (R-Utah) have introduced separate bills to make it easier for small companies like Davis' to get loans and stay in business. And the World Bank has shelled out $72 million in loans and grants to Y2K-stressed nations, including Argentina and Sri Lanka. But it may be too little too late: AT&T alone has spent $900 million fixing its systems.

Davis, for one, is not ready to quit. ''I've survived tornadoes, windstorms, and drought,'' he says. ''We'll be damaged, yes, but we'll survive.'' Sadly, not everyone will be able to make that claim.

WHY BIG BUSINESS MAY HAVE A SMALL-BUSINESS Y2K PROBLEM

[A January survey of small-business owners]

	Percent
Aware of the Y2K problem	55
Are taking action to fix it	38
Plan to take action but haven't yet	19
No action taken and none planned	18

Data: National Federation of Independent Business.

Mr. HOLLINGS. It is very short.

Multinationals such as General Motors, MacDonald's, Nike, and Deere, are making the first quarter—or the second at the latest—the deadline for partners and vendors to prove they're bug free. A recent survey by consultants Cap Gemini America says that 69% of the 2,000 largest companies will stop doing business with companies that can't pass muster. The National Federation of Independent Business figures more than 1 million companies with 100 workers or less won't make the cut and as many as half could lose big chunks of business or even fail.

Some small outfits are already losing key customers. In the past year, Prudential Insurance has cut 9 suppliers from its critical list of 3,000 core vendors.

Citibank has already cut. Cuts have already been made.

I read further down:

If a vendor is not up to speed by April or May, it is a serious crunch problem. Through the Automotive Industry Action Group, General Motors and other car makers have set a March 31 deadline for vendors to become Y2K compliant. In March, members of the Grocery Manufacturers of America will meet with their counterparts from food marketing to launch similar efforts. Other companies are sending a warning to laggards and shifting business to the tech-savvy.

Now I quote:

''Y2K can be a great opportunity to clean up and modernize the supply chain,'' says Ronald S. Boreham, Jr., chairman of the board of Baldor Electric Co. in Fort Smith, Ark.

The World Bank shelled out millions in loans and grants to Y2K-stressed nations.

On and on, Mr. President. Here is another article that the banks now, by June 30, will have all of their Y2K customers and everything else compliant, or they will have cancellations.

Otherwise, Paul Gillin said in Computer World earlier this year:

Vendors have had plenty of time to prepare for 2000. The fact that some were more preoccupied with quarterly earnings and stock

options than in protecting their customers is no excuse for giving them a get-out-of-jail-free card now.

That is what Computer World has called the Y2K bill, I say to the distinguished Senator from Arizona—a get-out-of-jail-free card—which is why I am surprised by my colleague, because he is usually on the other side. I quote again from Computer World:

The problem belongs—hook, line, and sinker—to the vendors that capriciously ignored warnings from as long ago as the late '70s. . . . It has been five years since year 2000 awareness washed over the computer industry [and everyone should now be compliant].

I was interested that Boeing, for example—and the Senator from Washington was here debating it—started back in 1993. Everyone has done that. This is a political fix—and I will get to that in just a little while. I want to just bring you really up to date with respect to the number of cases.

We had a witness, Ronald Weikers, who has written Litigating Year 2000 Cases, published by the West Group. I can tell you, the West Group is not going to publish anything partisan. They have a wonderful reputation for objectivity and reliability of their reports. He says:

I frequently write and speak about the subject. I do not represent any clients that have any interest in the passage or defeat of any proposed Y2K legislation.

Then he goes on to state:

Thirteen of the 44 Y2K lawsuits that have been filed to date have been dismissed almost entirely.

I brought that 44 figure up to date because that was the end of April, just a little over a month and a half ago. It is now 50 cases. Twelve cases have been settled for moderate sums of money, or no money. The legal system is weeding out frivolous claims. They act as if the courts just love to see a frivolous claim come into the court that doesn't have any substance. All you have to do is get 12 people and, whoopee, you've got money. You race to the courthouse, see the 12 people, and you get your money. It is a total fanciful picture that is being painted with respect to this legislation.

The legal system is weeding out frivolous claims and Y2K legislation is therefore unnecessary.

So says, of course, the Washington Post; they editorialized. We included that particular item in the RECORD, with others.

The most recent one is by Institutional Investor, a magazine from Wall Street. They had a survey taken, and this was just this month:

Do you feel your company's internal computer systems are prepared to make the year 2000 transition without problems?

Mr. President, 88.1 percent said yes; 6 percent said no. Here we are, 5 and a half months, and now the bill. This is a wonderful problem here, and we have to give it time. In January, under the McCain bill, you get 3 months. I am giving them 5 and a half months, the operation, right now, to that 6 percent. Get with it.

Have you done a dry run of your computer problems for the year 2000 transition?

Twelve percent said no problems. Few problems: 86.4 percent.

Then they asked:

Do you expect Y2K transition problems to have a material impact on your company's business or financial performance next year?

Three point six percent, and we have this wonderful Federal legislation. Of course, States haven't asked for that. No attorney general has ever come up here. In fact, the Conference of State Legislatures has resolved against this political fix. That is all it is, political. We will get to that in just a few minutes.

Only 3.6 percent said yes; 89.2 percent said no. And then 95.2 percent say they have worked with their suppliers and cleaned up the problem.

So here we are in June, 5 and a half months ahead of time, and we still are insisting, if you please, on the Y2K fix.

Let me divert for a second and get right into the matter of safety. I know it is difficult with the matter of gun violence in the schools, and everything else, for us politicians to think in terms of a safe America. But that is the fact. We have the safest society with respect to product liability. That is what this is about, the Y2K problem with your computer, a product liability.

Since 1963 in the McPherson case, under the common law, when the courts came in and enunciated the doctrine of strict liability, the State legislatures thereupon have followed suit, enunciating strict liability, joint and several liability, all over the land. When you buy a product, it is not caveat emptor, the buyer beware, but caveat venditor, the seller beware. They have to be responsible right down the line, because the proponents of this bill said they are going to go way down and find somebody with fat pockets, or high pockets.

That is total nonsense. I have a glitch on my computer now, and I know they are like fleas on a dog, and they are all rich; it is the richest crowd the world has ever produced, way better than any oil millionaires. I know they have deep pockets, but I am not racing to the courthouse. I told my secretary to get this blooming thing fixed. I have no time to run around to the courthouse. If I went to the courthouse at 12 noon, it would take until the year 2000 to get into the courthouse. File your pleadings and see how it happens.

The total unreality of the picture described here for the need of this particular legislation—it has worked and, yes, and the Europeans are following us, incidentally. I have the record here where they are coming along with strict liability and joint and several liability. I only mention that because they come in and say we are losing business to the Europeans. The Europeans are following America. We are setting the example for safe products in America.

The conference board has found that. The Rand study has found that. I could go to various others—232 risk managers; the conference board reports that the companies responded to product liability by ''making their products safer.'' So we know the effect it has had.

But to emphasize it, yes. Mothers Against Drunk Drivers has done a wonderful job with respect to consumers demanding a safe product, checking it out and understanding it—and various other things. The National Safety Transportation Board has come forth with various regulations, but it is really all prompted, if you please, I say to the Senator from Utah, by the trial lawyers. This town loves lawyers. That is all about lawyers. There are 60,000 of them. This town just loves lawyers. There are 60,000 to fix you and to fix me—not to get to the court. The lawyers are racing to the court around this place. I can tell you. I have been here 32 years now, and I know them. They are delightful folks. They are highly intelligent. I enjoy them. But one thing is that they have started advertising against working lawyers and the trial lawyers.

The lawyer that has to come in, if you please, and when he has a client that comes to him, he says first I have got to investigate and make sure the facts are as you say they are and you have been wronged. He has to pay for all the expenses of that investigation—the interrogatories, the discoveries, having to file the different pleadings, the trial of the case itself, and on appeal taking care of the briefs on appeal, the costs thereof, making of appeal and waiting for the court. And all along that so-called talented trial lawyer is rushing to the courtroom. He has to get all 12 jurors—not 11 but all 12 jurors. He has to get a majority opinion from the court. Then he gets his 20 percent or 30 percent, and these Senators run all around and saying they have a lottery, and ''strike it rich,'' and some kind of atmosphere.

The consumer has never been mentioned here. That is what trial lawyers represent. They do not represent themselves. They represent a wronged consumer. Ask the Consumer Federation of America. Ask Public Citizen. Ask anybody who represents consumers if they thought that this bill was appropriate. They are absolutely opposed to it, but we have them. They have been very clever in the way that they have postured this particular measure. It isn't about consumers. It isn't about wrongdoing. It isn't about need.

This is a measure—sooey, pig. All you computer folks come into town—you millionaires—falling over each other. Billionaires, excuse me. I don't mean to hurt their feelings. Billionaires are falling over each other because we are going to fix it for you, which reminds me; that is some crowd, isn't it? That is some crowd. They are highly intelligent. Bless their success, but that is the crowd now that wants

estate tax cuts. That is the crowd that wants capital gains tax cuts. That is the crowd that wants no tax on the Internet. What Wal-Mart has started cleaning up is Main Street. Now we are going to clean up the rest of it, because Main Street in the States and the municipalities is not going to be able to tax businesses as normal businesses on Main Street. In fact, the merchant on Main Street will say: Tell me. Yes. You want siding 42 feet long. That is fine. Let me order it. I will have it delivered tomorrow. I will order it on the Internet, and you won't have to pay the 8 percent sales tax.

There is the agent sitting up there in a little cubicle on Main Street, and all we have is the wig shops run up and down Main Street of America.

But that is the crowd that says get rid of the immigration laws. They have been spoiled. They have been told that money can buy anything. Get rid of the estate taxes, capital gains taxes, the immigration laws, and now get rid of the liability laws—200 years of State liability laws for wrongdoers—and instead they are saying the wronged injured party now has to pay for the misdeeds of the wrongdoer.

I go back to placing emphasis on the point: I want to join on the issue about these lawyers. It was Mark Robinson back in the 1970s who brought the Pinto case wherein the gasoline tank exploded. It was negligently and willfully proved that they knew it was unsafe, but they figured that the extra little cost from a market cost-benefit analysis that they weren't going to put in the safe gas tank.

He got a verdict in that death case of $3½ million and $125 million punitive damages 20 years ago. He collected zero of his punitive damages. He never got a red cent. But pick up the morning paper or yesterday's paper, pick up any news edition and you will find recalls.

I went to the National Transportation Safety Board. As of 1994—in the last 4 years—there have been 73 million recalls on account of the Pinto case, on account of trial lawyers. You break that down to $1.8 million, or $18 million each year, $50,000 a day, and 5 percent of the $50,000 would be death, the other 95 percent in injury, and Mark Robinson saved 2,500 people from being killed as of today. He ought to be proud of it. Every trial lawyer who works that hard knows he is taking a risk, and he has to convince by the greater weight of the preponderance of evidence all 12 jurors. He has to be studied and careful and legally sound and prevail on appeal. He is taking care of all the costs, and out of it the average American gets a good lawyer. They do not like good lawyers. They like office lawyers that fix you and me. They don't like working lawyers.

So all of us, this thing about running to the courthouse, race to the courthouse, and everything else, we put it to bed.

Under our system, torts have been relegated to the States. I would think the contract crowd would understand that. If I remember it, they came to town in 1995 and said the best government is the least government; the best government is closest to the people—the 10th amendment, the rights of the States. Even then the first thing they passed was to make sure the States were made whole. What did they call that thing? Unfunded mandates. That was it. Yes. Unfunded mandates. They wanted to make sure they would take care of the State communities. The States have been administering. They have been doing it on Y2K. Everyone is taking up the Y2K. They don't live in an isolation booth. The people are close to their government at the local level, and all of them have been hearing about this particular problem. It has been advertised.

Incidentally, my distinguished friends, the Senator from Utah, Mr. BENNETT, and the Senator from Connecticut, Mr. DODD, have performed yeomen service in bringing attention to this particular problem. But the States have been administering this, whereby you have to be a accountable for your wrongful acts. Having done so, we have a safe America with the States having administered properly their product liability law. They have refused every time—and this has been going on for 20 years—to get the Federals to come in.

Here were the States asking not to do it. No State attorney general has come up and asked for it. No State Governor has said it is inadequate, and we need a Federal statute. Here they want to do away with 200 years of liability law at the State level. Why? Why? Why? Why? Why? Look here. All we have to do is get yesterday's New York Times, June 14. On the front, left-hand column, ''Congress Chasing Campaign Donors Early and Often.'' The money chase. If you have any doubt about that, just the day before, on Sunday in the Washington Post, a two-column story appears on two pages, ''GOP Vies for Backing of High-Tech Leaders.'' ''Party aims to exploit Y2K vote at CEO summit.''

That is why they have all of them in town. This is a disgrace. This crowd has gone so political about message, message, message, they got the message together, but they say: Now, wait a minute. Senator MCCAIN and Senator HOLLINGS were ready for a final vote at 12:30 last Thursday, but we have to wait 5 days because you have to have a message but you have to have it timely.

Guess who is in town this afternoon when we vote. Bill Gates of Microsoft. You want me to call the roll? Want to hear a bird call? Here we go.

John Warnock of Adobe system, Carol Bartz of Autodesk, Greg Bentley of Bentley Systems, Michael Cowpland of Corel Corporation, Dominique Goupil of FileMaker, Bill Harris of Intuit, Jeff Papows of Lotus Development, Bill Gates of Microsoft, William Larson of Network Associates, Eric Schmidt of Novell, John Chen of Sybase, John Thompson of Symantec Corporation, and Jeremy Jaech of Visio Corporation.

Of course, we have some that we could not get to meet with us, I guess—like Netscape.

I saw Barksdale on TV, and I saw the head of IBM, Gerstner. They were on my morning TV. They are all in town.

I thought this was the most amusing thing I had ever seen. I lifted this—I had to scroll it down word for word. Turn on channel 2, the TV here, which is the Republican screen of what is going on. I read it word for word: Senate again attempts to end minority stranglehold—the great Y2K money chase.

That is the first time an outreach, bag in hand, has ever been called a ''stranglehold.'' We have been begging, trying to get a little bit of the crumbs from Silicon Valley. We have to run, too. We have never been against technology. I am the author of the Advanced Technology Program. I am the author of the Manufacturers Extension Partnership Program. It all works. It was supported by the electronics industry, the technology industry. It is working extremely well. We are trying to expand it.

I would love to get Mr. Gates and Microsoft to South Carolina. I don't speak in a disparaging way. I speak in an adoring way. But don't come here with the screen about stranglehold.

We have the Federal Election Campaign Commission. Last year, according to their records:

Intel, Andy Grove, hard money, the Democrats got $16,000; the Republicans got $64,000.

Microsoft, the Democrats got $71,000, and the Republicans got $143,000.

Soft money, Microsoft, the Democrats got $135,000; the Republicans got $629,000.

This is usually a performance of my distinguished chairman from Arizona, because I have heard him and he is very effective. I am just shocked he is not doing this and I am forced to do it.

I could go down the list here. Computer Services Corporation, the Democrats, $25,000; the Republicans, $53,000.

Microtech, Democrats, soft money, zero; Republicans, $16,000.

Advanced Micro Devices, soft money, the Democrats got $1,000; the Republicans, $95,000.

I have the list. You can go over there.

Stranglehold? Come on, give me a break.

Here is what they are doing. They come here. We all have to run. So we create a problem. We raise a straw man of trial lawyers. We don't talk about consumers. We don't talk about the wrongdoing. We don't talk about trial lawyers representing wrongdoers. They are not just running around with frivolous cases. That is an imaginary thing that could be brought at the political level but not at our level, I can tell you that. Trial lawyers worth their salt are

not fooling around. They have to make a living. They don't run up and down and ruin their reputation. You know they are not getting anywhere. The courts take care of the frivolous charges. They raise that thing and they are saying: Here is what we are going to do; we are going to get rid of the lawyer.

It was very obvious in the debate how they are going to get rid of the lawyer. They said get rid of economic damages. If you come in with a $10,000 or $20,000 computer and that is all you are limited to, that is all you can recover.

What I have just described—for the investigation, the pleadings, the interrogatories, the depositions, the trial, the appeal, the cost, the time—as a lawyer, I would tell my secretary up front, if they come in, tell them those are very complicated cases and there are a lot of legal loopholes to go through and delays, and we are just not in a position to handle those cases.

That is the way to get rid of the lawyer. They know exactly what they are doing.

When Senator EDWARDS of North Carolina came up and said, wait a minute, you can't do that, the Senator from Oregon said, we will give you exactly whatever the contract. You don't contract for torts. You don't say, we are going to contract for the wrongdoing; the contract is complied with.

If they defraud you, if they engage in wrongdoing, while the computer is down you are losing your customers to your competition, you are losing your business, you may have to let go of some of your good employees to tide yourself over.

All the time that business has to wait—and a small business at that—I can tell you right now, there will be serious economic damages.

If there is any doubt about it—because that is what small business wants. They don't want a law case; they want it fixed—up comes the Senator from California, Senator BOXER. She said: Don't give us trials, don't give us lawyers; just get a fix.

They denied that in an up-and-down vote. They said instead of fixing the computer, we are going to fix the lawyers; we are going to fix the system.

Just like any car dealer who comes around, what we are going to do is take your junk off the shelves and sell it; don't worry about it, because the law will protect you for 3 years. You can get rid of all your old models. Don't worry about it. Get rid of the junk. We will repeal the liability bill. We will say that fraud pays for the first time in America.

No one is going to get these cases. That is what they will do. I can see exactly what was happening with that particular witness from New Jersey who came before the committee. He bought an update that was represented to last for 10 years. Within a year he found out it wasn't Y2K compliant. He paid $13,000. He called them twice and nothing ever happened. He wrote a letter. They finally came back and said they would make it Y2K compliant, for $25,000. That was after he got a lawyer and it went on the Internet and some 17,000 similarly situated people filed, and that particular manufacturer, supplier, came back and said they would fix it for nothing and pay legal fees.

You can see the game that business will play on a cost-benefit basis. We live in a rough world, but we have a responsibility in American society. It is done well at the State level and has worked well at the State level. No State has asked for this particular measure. Instead, the Association of State Legislatures has resolved against the Federal Y2K bill.

But they have the audacity to come up here and raise a straw man of lawyers running to the courthouse, in a litigious society and all of that nonsense, 5½ months ahead of time, and insisting on passing this particular measure, and insisting on the time of its passage is when the computer folks are in town so they will know who delivered the goods.

I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield 10 minutes to the Senator from Utah, followed by 10 minutes to the Senator from Connecticut, if that is agreeable to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Yes, it is.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have enjoyed the remarks of my colleague, my dear friend. In this body, he is certainly a champion for the trial lawyers, and certainly I have been as well. I intend to continue to stand up for trial lawyers, who do a great job for consumers in this country, but we are talking about a little bit of a different problem.

Mr. President, I rise to express my support for the final passage of S. 96, the Y2K Act, as modified by S. 1138, the bipartisan Dodd-McCain-Hatch-Feinstein-Wyden-Gorton-Lieberman-Bennett amendment. This bill effectively addresses the very serious problems associated with the Y2K computer problem.

As you know, Mr. President, what is now known as the Y2K problem arises from the inability of computers to correctly process the date after December 31, 1999. When January 1, 2000 arrives, the computers that cannot process that date will have a variety of problems, ranging from very mild glitches to severe breakdowns. In the technologically dependent world we live in, this creates obvious problems for both individuals and for any business that relies on computer technology at any point in its business.

As a result of this problem, we face the threat of an avalanche of Y2K-related lawsuits that will be filed on or about January 3, 2000. Such an unprecedented wave of litigation will overwhelm the computer industry's ability to correct the problem. As I have said before, this super-litigation threat is real, and the consequences for America could be disastrous. Already, there have been more than 66 lawsuits, including 31 class actions, filed based on the Y2K problem. These suits are the beginning of a tsunami of litigation that could drown America.

As a Senator from the State of Utah, I am extremely aware of the impact this problem will have on the economy of the United States, as well as that of the entire world. Utah stands with a number of other states as a leader in the technological boom that has fueled America's economic progress in recent decades. The future of Utah, and of all America, relies on our ability to continue in our role as the global technological leader. As I have said before, if we fail to counteract the negative effects of the Y2K problem, we will be killing the goose that lays the golden egg.

Every dollar that industry has to spend defending itself from frivolous litigation is a dollar that cannot be spent on fixing the problem. The way to minimize the hardships caused by the problem on January 1st is to encourage remediation by the technology industry and to encourage mitigation by would-be plaintiffs, both before and after January 1st. This bill does precisely that.

The Y2K bill provides powerful incentives for industry to fix the Y2K problem before it happens and to remedy problems once they occur. Contrary to what some opponents of the bill have alleged, there is absolutely nothing in the bill that would deny any aggrieved party the right to sue. Let me repeat this. There is nothing in the bill that would prohibit anyone from bringing a lawsuit. What the bill does is to create powerful incentives to fix problems before resort to the courts is necessary. It encourages remediation through the requirement of pre-litigation notice and by providing opportunities for alternative dispute resolution. The pre-litigation notice and pleading requirements also assist industry in fixing Y2K problems by requiring that prospective plaintiffs provide the information necessary for the defendant to understand and remedy the problem during the cure period.

In addition to encouraging the computer industry to remediate the problem, this bill fosters action by both industry and consumers to avoid the problems caused by Y2K failures. This bill preserves contracts and State contract law, encouraging contracting parties to anticipate the possibilities of Y2K failure and to do all they can to avoid them. The bill also imposes a duty to mitigate, requiring prospective plaintiffs to do what they reasonably can to avoid damages occurring because of a Y2K failure.

Some Senators have raised concerns about some of the provisions of the

Y2K Act. Let me address some of these concerns.

Specifically, some Senators have opposed to the punitive damages provision, the proportional liability provision, and the section dealing with the economic loss rule. In the past several days, however, we have also heard many of my colleagues set forth the reasons why these provisions are central to the effective operation of the bill in preventing the disaster that is imminent in the wake of extensive frivolous Y2K litigation.

The punitive damages provision of the Y2K Act is essential in order to prevent the destruction of America' small businesses by excessive punitive damage awards. This section of the bill is extremely limited, as it applies only to small businesses. The bill simply does not impose a cap on punitive damages for any defendants other than small businesses. Opponents of this provision argue that punitive damages serve as a deterrent to misconduct, and that placing a cap on them will remove that deterrent. The punitive damage cap created by this bill does not remove any deterrent to misconduct.

Punitive damage awards against small businesses will be limited to three times the amount awarded for compensatory damages or $250,000, whichever is less. FOr small businesses consisting of an individual whose net worth does not exceed $500,000 or a company with less than 50 employees, this is a significant deterrent of misconduct. In addition, there is no cap at all if the plaintiff establishes by clear and convincing evidence that the defendant acted with specific intent to injure the plaintiff. I cannot take seriously the argument that this formulation of punitive damages is too small to act as a deterrent. Treble damages or $250,000 is a significant piece of change to pay for a small business.

In fact, I supported a similar cap for all businesses. But, in the spirit of bipartisan compromise, we agreed to limit the caps to small businesses. I understand that even the White House supported a similar small business cap provision in the products liability bill of two years ago. So what's the big deal?

What the small business punitive damages cap does do is to protect our small businesses from utter destruction by excessive punitive damage awards. As last year's Rand Corporation study of punitive damages concluded, the United States has witnessed a substantial increase in the amount of punitive damage awards. Witness the recent May 10 punitive damage award by an Alabama jury of $581 million to a family that complained they were overcharged $1,200 for two satellite dishes. According to Rand, although punitive damages amounts to a minority of all damages awarded, the very size of these awards skewers the civil justice system. Even frivolous lawsuits are settled for fear of large judgments. This has led to what is termed ''jackpot justice.'' Lawsuits have been grossly transformed from a search of justice to a search of deep pockets. We have tried to counter this trend—at least for small businesses—in the Y2K Act.

Speaking about ''jackpot justice''—the proportionate liability provision is intended to mitigate the quest for deep pockets by assuring fairness in the award of damages. Punishment must fit the crime and it is only fair that defendants should be liable only for the part of the damage that they cause. In an attempt to forge a bipartisan compromise, Senators MCCAIN, DODD, WYDEN, LIEBERMAN, FEINSTEIN, GORTON, BENNETT, and myself, agreed to the formulation of proportionate liability found in the Federal Private Securities Litigation Reform Act of 1995. This act was signed into law by the President several years ago—so it should be acceptable to the administration.

Yet some opponents to this bill have spoken out against this provision. Opponents of this section of the bill apparently want some defendants to be liable for all damages, even if they were responsible only for a tiny fraction of the damage. That is the very definition of ''deep pockets.'' The Y2K Act would prevent this and that is why it is opposed by the trial attorneys. The act ensures that a defendant's liability in a Y2K action will be for the damage that they caused, and not for the damages caused by other defendants.

Another section of the bill that is under attack is the class action section. Opponents of the bill say that this provision would federalize all State actions. This is a gross exaggeration. Let me explain.

The class action provision is vital to the effective operation of the bill. Class actions are a significant source of abuse. I have seen this as chairman of the Judiciary Committee. Far too often, Federal jurisdiction is defeated by joining just one nondiverse class plaintiff—even if the overwhelming number of parties are from differing States. This wrecks the clear purpose of Federal Rule of Civil Procedure 23—to provide for a Federal forum ameliorates myriad state judicial decisions that are conflicting in scope and onerous to enforce.

Now, as I stated before in this debate, I am a great proponent of federalism and the right of our States to act as what Justice Brandeis termed national laboratories of change. But it is axiomatic that a national problem needs an uniform solution. That is the justification for Congress' commerce clause power and its consequent promulgation of rule 23. That is the justification for the Y2K Act itself, in which the Y2K defect is clearly a national problem in need of a Federal answer.

The economic loss section of the Y2K Act has also been the subject of some contention. Let me reiterate some of the arguments I made last Thursday on the Senate floor in opposition to the Edwards amendment which if passed would have weakened this section. The economic loss rule is already widely accepted and has been adopted by both the U.S. Supreme Court and by a majority of States. The rule basically mandates that when parties have entered into contracts and the contract is silent as to consequential damages—which is the contract term for economic losses—the aggrieved party may not turn around and sue in tort for economic losses. Under the rule, the party may only sue under tort for economic losses. Under the rule, the party may only sue under tort law when they have suffered personal injury or damage to property other than the property in dispute.

In short, the Y2K Act's economic loss section ensures fairness in contract law by applying the rule already in use in most states to Y2K lawsuits. It prevents ''tortification'' of contract law by flagging an end run against terms of a contract agreed to by the parties.

Let me also remind the critics of this bill that it is of limited duration. This bill is designed to specifically address the problems related to Y2K computer failures that will occur around the turn of the millennium. In keeping with this purpose, the bill has a sunset period, which means that the entire bill will only be in effect until January 1, 2003.

Let me also make a variant of Pascal's wager. If these disputed provisions are harmful, as some critics contend, enacting them will do little harm because the bill will expire in 3 years. But if, as the supporters of this bill believe, these provisions are critical, not including them in the final bill could greatly harm the economy and our high tech industries. The choice is obvious. Both reason and equity require that these provisions remain in the bill.

Some have expressed concern that President Clinton will veto this bill. I don't think he will. This bill can only solve the problems created by the Y2K problem. Its provisions encourage remediation and mitigation, and encourage solutions to problems. The President knows this. He knows that to sign the bill can only help our nation and the world. He knows that by vetoing the bill he will, at best, be doing nothing to solve the Y2K problem, and that at worst he will be contributing to it. If we are to be successful in solving this great problem before us, we must overcome our fear and pass the Y2K bill as a strong and effective piece of legislation.

Again, I emphasize the importance of this bill to our nation's future. Without meaningful legislation addressing the Y2K problem and the deluge of litigation that will surely follow, our nation may suffer devastating consequences. The Y2K Act before the Senate today is that meaningful legislation. This is a bipartisan bill, created and shaped through cooperation on both sides of the aisle. I urge my colleagues to vote for its final passage.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, I want to once again commend my colleague from Utah. He has given a very insightful legal analysis of what the implications of this proposal are, what the authors of this bill are attempting to do. I will restate, not as eloquently as he has, the fact that the trial bar performs a very valuable service in this country.

There is no way in the world the Justice Department, and others, could do all the work the private litigators achieve on behalf of all citizens. But to listen to some talk about this bill, you would think we had just voided all litigation when it came to the Y2K issue. Nothing could be further from the truth. In fact, quite to the contrary, it provides for a systematic way for laws to be filed should there be no other means of resolving the difficulties.

I commend my colleague from Utah. I also commend Senator MCCAIN, the chairman of the committee and the principal author of this legislation, my colleague from Oregon, Senator WYDEN, and the many others who have been involved in putting this piece of legislation together. I also wish to commend the hard work of Senator MCCAIN's staff, Senator WYDEN's staff and I wish to particularly recognize my own staff and all the work that they have done.

We have now resolved most of the outstanding issues, or we have had votes on a number of them. I understand we will have a final passage vote sometime early this afternoon.

We, as a nation, and the world at large are going to meet the new millennium 199 days from today. That is when the clock turns. As many of my colleagues know, Senator BENNETT of Utah and I were asked by the leadership of this body—the majority and the minority—to head up a special committee, if you will, to take a good, hard look at the Y2K issue and the full ramifications of it on our National Government, State and local governments, private industry, nonprofits, and the world.

We have held, over the last year and several months, some 22 hearings; we have had site visits to nuclear power plants, hospitals, and financial services sectors; we have had staff who have gone overseas to meet with leaders of other countries—all of this, as quickly as we could, to give our colleagues and the country the benefit of an analysis of where we stand with this issue of the year 2000 millennium bug.

I am not going to go into all the details of the work. We have had a good committee. I commend my colleague from Utah, Senator BENNETT, who has done a very fine job chairing this committee. We think—we hope—we have provided a valuable service in highlighting and pushing and using the forum of that special committee to urge a greater sense of urgency on the part of the various sectors of our society to get ready for this problem.

I think it is fair to say we believe we are in fairly good shape on this issue. Again, I will not go through all the details, but, by and large, most sectors in our society—government at all levels—are doing a good job of remediating the problem, taking the steps that are necessary to fix these computers and to eliminate the potential hazards and harm. There are larger problems offshore. I am not going to go into that at this point. But there has been a lot of work up to this point.

One of the things we concluded, in part, is that we ought to come up with some sort of a means by which, if problems do emerge after January 1, we ought to try to fix the problem before we litigate the problem.

This is an outrageous thought, but maybe Congress might actually do something in anticipation of a potential problem. We do not normally do that around here. We wait for the problem to hit us. We wait for catastrophes to occur, many of which we cannot predict, obviously, because in many cases we talk about natural disasters or unanticipated events.

However, in 199 days, we have a very anticipated event. We have been told by experts, knowledgeable people, during the last 2 years in our hearing cycle—one expert after another—that we have a very serious problem hanging over us potentially, come the change in the millennium date.

You could go the traditional route and rush to the courthouse every time a problem emerges—with a handful of law firms, by the way. To speak about the trial bar on this issue, you can count the law firms on one hand, almost, that are involved in this kind of litigation. Let there be no illusion, this isn't your fender-bender, your product liability case, your personal injury case. This is a very specialized area. They would prefer to run to the courthouse for the problem.

Those of us who have offered this bill do not rule out the courthouse at all, but we say: Why not a 90-day cooling off period? How about saying you have to take some time to try to fix the problem? As much as we try to anticipate the problem, we cannot guarantee that we have done so. If a problem emerges, why not try to fix the problem? If you cannot fix it, then go to the courthouse. It is not much more complicated than that.

This bill lasts 36 months. You would think, to listen to some of my colleagues, we were amending the Constitution of the United States, the Bill of Rights, that we were changing the Ten Commandments. This is a 36-month bill for one short window in time, for us to say we want to try to solve the problem and not run to the courthouse for 36 months.

Can the trial bar bear that for 36 months? To see if we can't come to some conclusion and avoid the tremendous cost, the business to consumers, and others, as they spend weeks and months, if not years, litigating these problems instead of trying to fix them? That is really what this is all about.

We came to some significant compromises here. In fact, this bill ought to have been done on a consent calendar, in my view. It should not have taken a week's time in the Senate to deal with this issue. It is not that complicated.

What we have done here is, we have put caps on punitive damages for small business. We do not think you ought to wipe out a small business because you file a lawsuit against them, because they have a computer glitch problem. These punitive damage caps apply only to businesses that employ 50 people or less. We have directors' and officers' liabilities—again, no ceilings here on punitive damages at all. The trial bar begged for those things. That is included. That is in our bill.

We have proportionate liability here. This is the great stumbling block, I guess, for some in this 36-month bill. For 36 months we are going to have proportional liability—this cataclysmic event that is occurring here for 36 months—where we say that if, in a normal case, you are guilty of involvement in some problem, you are responsible for that percentage of the problem you caused—that is a radical idea—except, however, that is not the case if in fact you had an intentional, willful action on the part of the defendant. Under those circumstances, there is no proportional liability; it is joint and several. So we protect the plaintiff that may have been severely hurt as a result of this problem.

That is basically the sum and substance of this legislation—for 36 months.

This is an important industry, the high-technology community. It is changing the economy of our Nation and the world in which we live. The United States is on the cutting edge. We are leading the world. Ten or fifteen years ago, all we talked about was the Japanese and the Pacific rim. The United States could not compete in high technology. We had lost it forever. Well, there were bright people in this country who had other thoughts. As a result of their ingenuity and hard work, they changed the nature of how the world looks to leadership in high technology. Today the United States is the leader. These leaders champion ideas that are incubated in basements and garages, these technology leaders are often young people who are coming out with little or no money in their own pockets but a good idea. They are changing how you and I live.

Mr. President, I ask unanimous consent for 30 additional seconds to wrap up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. These industries are critical to the 21st century economy of this country. I do not think we ought to allow some big appetites and a handful of law firms to go out there and try

and do damage unnecessarily to these people. If you have to get to a courthouse, you get to the courthouse. But, for 36 months in this country, let us take time out and try and solve the problem.

This bill that Senator MCCAIN, Senator WYDEN, myself and others have authored, we think buys us this short window of time to resolve these difficulties. I hope this afternoon, when final passage occurs, my colleagues will vote for the 21st century future and not for a handful of law firms that want to litigate forever.

Mr. MOYNIHAN. Mr. President, I rise to congratulate Senators MCCAIN, DODD, BENNETT, and HATCH for all the work they have done on S. 96, the Y2K Act. The bill will help protect against frivolous Y2K lawsuits. With just 199 days until 2000, the focus must remain on fixing the computer problem, not on litigating it.

The Y2K computer problem has been with us for some while, and it would be derelict of me not to mention that it was brought to my attention by a dear friend from New York, a financial analyst, John Westergaard, who began talking to me about the matter in 1995. On February 13, 1996, I wrote to the Congressional Research Service to say: Well, now, what about this? Richard Nunno authored a report which the CRS sent to me on June 7, 1996, saying that, ''the Y2K problem is indeed serious and that fixing it will be costly and time-consuming. The problem deserves the careful and coordinated attention of the Federal Government, as well as the private sector, in order to avert major disruptions on January 1, 2000.''

I wrote the President, on July 31 of that year, to relay the findings of the CRS report and raise the issue generally. In time, a Presidential appointment was made to deal with this in the executive branch. And last spring—less than 1 year ago—the majority and minority leaders had the perception to appoint the Senate Special Committee on the Year 2000 Technology Problem.

We have done a fine job preparing for the Year 2000. It took some cajoling, but people finally began to listen. The Federal Government should make it. The securities industry has been out on front on this. Their tests went very well this past March and April. When Senator BENNETT and I held a field hearing last summer—July 6—in the ceremonial chamber of the U.S. Federal Court House for the Southern District of New York, we found the big, large international banks in the City advanced in their preparations regarding this matter.

But much work still remains to be done. Testing and contingency plans are still being addressed. Last year, Senators BENNETT, DODD, and I introduced the Y2K Disclosure Act. This act, which the President signed on October 19, 1999, has been very successful in getting businesses to work together and share information on Y2K. S. 96 builds on the Disclosure Act and encourages remediation and information sharing. It is a good short-term fix for a once-in-a-modern-civilization problem, and I encourage the Senate to pass it forthwith.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN. Does the Senator from North Carolina want to use his time?

Mr. HOLLINGS. I thank the distinguished Senator. Mr. President, I yield 10 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. EDWARDS. I thank the Chair.

Mr. President, we have a bill before us today that has had a great deal of discussion. I just listened to my friend, the distinguished Senator from Connecticut, discuss it. He and I agree about a great many things. We agree about a great many things with respect to this bill.

I think it makes great sense to pass a moderate, thoughtful bill that provides protection for the computer industry. I think it makes sense to create incentives for consumers, buyers of computer products and those people who sell those products to, No. 1, try to remedy any Y2K problems that might exist with the computers they purchase and, No. 2, to work together to solve any problem that either of them may have, either the seller or the purchaser.

I think it makes a great deal of sense, as a result of that, to have a cooling off period. I think the 90-day cooling off period is something I strongly support. I add to that, I strongly support the idea of alternative dispute resolution which has been discussed at great length on the floor of the Senate. I think all those things accomplish positive things. They accomplish the goal of providing some legitimate protection for the computer industry. They accomplish the goal of having folks work together to try to avoid lawsuits. I think those are things that we ought to support.

There is a fundamental problem with this particular bill. The problem is this: There are going to be cases where purchasers of computers, whether they be consumers or small businesspeople, are going to suffer legitimate losses. They are going to have a Y2K problem. Their business is going to get shut down. They are going to have to continue to make payroll. All of us who grew up with small businesses understand that proposition. They are going to have to keep paying their employees, keep having overhead. But as a result of a Y2K problem, they do not keep generating revenue.

They are going to have a real and substantial loss. The computer company or salespeople who sold them the computer may well be responsible for that loss. In those cases where the computer company or the manufacturer acted in a reckless or irresponsible way on one hand, and in addition to that, we have a purchaser who suffered a real substantial and legitimate loss—I am not talking about something frivolous, not talking about their VCR won't work; I am talking about their family-run and family-owned business has been put out of business—that loss exists as a result of a Y2K problem clearly caused by somebody's irresponsibility, what we have to recognize is that loss will not go away. It exists. It exists in reality. It exists in the pocketbook of this small businessman.

The question is really very simple. Who will bear that real and legitimate loss when it occurs?

There are two problems in this bill. One has to do with the issue of joint and several liability. The other has to do with economic loss. They are both devastating in how they deal with that issue.

If you start with the basic premise that that loss which has been suffered by the consumer or a small businessperson is a real loss that is not going to go away, then the question becomes, who is going to pay for it? By eliminating joint and several liability, what we have said by law is if there are multiple parties who may be responsible, but for some reason one of those parties can't be reached, that we are going to shift that part of the responsibility, whatever, because it is an offshore company, if it is a company going bankrupt, out of business, whatever, and that company was 20 percent responsible, that loss gets shifted to the innocent consumer, the businessman, under this law. That is exactly what this law does.

Joint and several liability has existed in this country for 200 years. It exists for a simple reason—because it is fair and it is equitable.

What we say in the law of the United States is that we always want the guilty to pay and not the innocent. What this law does is, it changes that fundamental premise. If a Y2K problem exists and an innocent consumer or businessman suffers as a result, that share of the loss that can't be recovered will be borne not by those who participated in the loss, the guilty, but will be borne by the innocent. That is one problem.

There is a second problem that is even more devastating. This bill essentially eliminates the right to recover economic losses, which means, in my example, a small businessman whose family-run-and-owned business has been put out of business, as between him or her and a computer company or computer sales business that has sold the computer to him knowing it was non-Y2K compliant, as between those two, what we say in this law is, the innocent purchaser will bear the loss.

It is so important for all of my colleagues and the American people to recognize that there has been a lot of rhetoric on the floor about lawsuits and lawyers and the trial bar I heard Senator DODD talking about a few minutes ago. This has nothing to do with lawyers. What we are taking about and

what we ought to be talking about is who is going to be protected by this bill and who is going to be hurt by it.

We know who is going to be protected. The big computer companies will be protected. Now the question is, Who will be hurt? It is not lawyers that will be hurt. The people who will be hurt are consumers and small businessmen. It really becomes a very simple proposition. We are protecting the big guy, and we are shifting that injury and damage to the little guy. It is the little guy that gets hurt by this bill.

In my example where a computer has been sold that is non-Y2K compliant, the people who sold it did it absolutely intentionally. They knew exactly what they were doing and some innocent businessman in a small town in North Carolina gets put out of business. If this law passes, this is what he can recover; he can recover the cost of his computer.

Well, he is going to have a great time explaining to his family, to his mother and father, who spent their life building up his business, that they have been put out of business and they can identify who caused it and they did it intentionally and willfully and they were irresponsible, but all they can ever get back is the cost of their computer.

It is fundamentally wrong. It is inequitable and it is unfair. That is what is wrong with this bill.

I want to mention three specific examples that I think show the American people what a problem we have. Example No. 1, let's suppose we have a businessman who runs his assembly line with a computer system. On November 15, 1999, this year, the computer salesman comes to him and sells him a new system. Let's assume that computer salesman knows the system is not Y2K compliant. On January 2, 2000, his assembly line comes to a grinding halt. It does so because of this Y2K problem. The people who sold it to him were reckless and irresponsible in doing so. He has lost all of his sales. He can't produce a product.

Let's assume that some of his customers will void their contracts, which they would. He doesn't have what they need and they have to get their product somewhere. They void their contract because he doesn't have anything to sell them. He can't meet payroll. For about 3 weeks, he is able to pay his people, but he can't meet payroll now because he has nothing to sell anymore. He goes out of business. Under section 12 of this bill, under that example, this is what this manufacturer can recover: The cost of the computer. He may have lost thousands and thousands of dollars. He has been put out of business, and what he can get back is the $5,000 cost of the computer. That is one example.

Let me give a second example. Suppose a businessman buys a computer program that manages his billings, his promotional mailing, and his data bases. On January 1, 2000, the program fails and renders the computer unworkable. The business can't send out its bills and loses the use of its mailing list and data base for more than 2 months; as a result, it goes under. Under this bill, he has been run out of business—clearly a Y2K problem, clearly the responsibility of the people who sold him the computer system. But all he can recover is the cost of his computer.

Finally, assume that we have a doctor who buys an infusion pump which is run by a computer, which is done all over the country in doctors' offices, and he uses it for a surgical procedure in his office. Because of a Y2K problem, it fails during surgery and a patient he cares about is severely injured as a result. They sue him for malpractice. He has to pay some huge judgment. He doesn't have enough insurance to cover it, so he loses thousands and thousands of dollars and his business is ruined. What that doctor who is operating in small town North Carolina is allowed to recover is the cost of his computer.

The problem is—and all three of these examples show it—it is very fundamental to the problem existing in this bill. We are going to have real and legitimate losses that are caused by irresponsible conduct. The vast majority of computer companies in this country will act responsibly, but the reality is, as we all know, there will be a minority of those companies that do not act responsibly. We are going to have small businesspeople and consumers all across the United States who have real losses. I think my colleagues, Senator MCCAIN, Senator WYDEN, and Senator DODD, would all recognize that is true. That is reality.

What we do when we pass this bill is we take that real, legitimate loss that has to be borne by somebody—it doesn't disappear into thin air because the Congress of the United States passes a law. These folks who run small businesses and these consumers are going to have some real losses. It is a simple question: Who pays for those losses?

What I propose is that we have a bill that creates every conceivable incentive to cure Y2K problems, to cause these people who have legitimate complaints to work to solve those problems; that makes the purchaser do everything in his power to reduce his losses, to act in a very responsible way; that we streamline the process; that we find a way to have alternative dispute resolution; that we make the court procedure as simple as it can possibly be. All of those things would go to help with any litigation that might occur, or any day in court that may occur.

The problem is that this bill takes that loss that is real and legitimate and says we are going to go a step further; we are going to say when somebody suffers a real and meaningful loss, we are going to make the innocent consumer and the small businessman bear that loss. It is fundamentally wrong. It is inequitable. It violates every principle of law that exists in this country.

The American people absolutely do not believe in this and would not support it. They don't want frivolous lawsuits. None of us do. We ought to cut those off. They want people to use alternative dispute resolution. They don't want people going to the courthouse the first time they have a problem. We ought to do something about that. But what we should not do is throw the baby out with the bath water. There are going to be real people out there who have real losses, and it is simply not right—and the American people in their gut know it is not right—to take that loss and shift it from the people who are responsible to the innocent people who have suffered.

I will make one last comment and I will be finished. I have heard Senator DODD and Senator WYDEN talk at great length about the sunset nature of this bill, that this is a 3-year bill. With all due respect to those arguments, I think they are a smokescreen. This bill will cover virtually every Y2K problem that exists, because by the very nature of the problem, it is going to come into existence in the year 2000. So it doesn't make any difference. They could cut it off in 2 years, or in a year and a half. It would not make any difference whatsoever. It could be 20 years. It is going to cover exactly the same losses—those losses that rear their ugly heads in the year 2000 because of a Y2K problem.

So what I say to my colleagues and to the American people is that, being from a State where we are very proud of our technology industry and believing that the great majority of technology companies act in a very responsible way, I think it makes a lot of sense to provide some thoughtful protection for those folks and to provide the kind of incentives we have talked about today. But I don't think we should go so far and be so drastic and so dramatic as to take away a real and legitimate loss and to take that loss, which is not going to disappear, and shift it from the people who are responsible for it to the innocent consumers and to innocent small businesspeople. I think that is wrong. I think it is protecting the big guy against the little guy. For that reason, I oppose this bill and will vote against it.

I yield the remainder of my time.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I want to respond to some of the points made by the distinguished Senator from North Carolina. But before I do that, I want to talk about what a vote against this legislation means today.

A vote against this legislation today means that the high-technology sector, which is driving this Nation's economic prosperity, doesn't deserve the same kind of treatment afforded the airline manufacturers; the high-technology sector doesn't deserve the same kind of treatment afforded the securities industry; the high-technology sector doesn't deserve the same kind of treatment afforded the financial services

sector. I just don't think that makes sense, when it is so clear that we are going to have problems in the next century with respect to Y2K, that we would compound those problems by not giving high technology the same sort of protection that we have given to a variety of other industries.

Second, it seems to me that a vote against this legislation is a vote against the Nation's risk-takers, and it is a vote against the Nation's entrepreneurs who are working their heads off today to make their systems Y2K-compliant but are legitimately concerned about frivolous lawsuits. I don't think the Senate ought to be voting today against those risk-takers and entrepreneurs.

Third, it seems to me that a vote against this bill fails to recognize how dramatic the bipartisan changes have been to this legislation since it came out of the Senate Commerce Committee. The Senate Commerce Committee bill, as far as I am concerned, was a nonstarter. The House bill is a nonstarter. But this bill puts tough pressure on business and directs systems to cure problems, as well as those who might want to bring suits to mitigate damages.

Now, my friend from North Carolina has said repeatedly for days that if you have a problem and you are a small businessperson, you are not going to get to recover anything except the cost of the computer.

My question, colleagues, is, Why in the world would the overwhelming majority of the Nation's small businesses be calling for passage of this bill if all they got when there was a problem was the cost of a computer?

I agree with the Senator from North Carolina. These are dedicated, thoughtful people. Why in the world would they be in support of a bill if all they got was the cost of the computer?

The reason they are for the bill is they get all the rights that are prescribed in the contract that a majority of them signed when they purchased a computer. They get the damages that are the foreseeable consequence of a Y2K problem. They get economic losses as prescribed by State contract law. That is the reason why the overwhelming number of small businesses in this country are for this legislation.

The fact of the matter is, colleagues, that the so-called culprits who are behind the Y2K problem are folks who didn't really realize decades ago what we would be faced with at the end of the century.

Let me tell you what Alan Greenspan had to say recently on this issue. Alan Greenspan said, ''I am one of the culprits who created the problem. I used to write those programs back in the 1960s and 1970s, and was so proud of the fact that I was able to squeeze a few elements of space by not having to put 19 before the year.''

That is what Alan Greenspan said. He said he was one of the culprits behind the problem. In the infancy of the information age when every byte of memory cost about $1 million, he saved his company a lot of money. Today a million bytes of memory can be bought for less than a penny.

This problem was a result of an engineering tradeoff, not some kind of conspiracy of computer geeks. I doubt that any computer programmer ever dreamed that programs written in the 1960s and 1970s would still be running today.

But the point of this legislation is to keep the heat on all of our Nation's companies to do everything they can to make the chips and the computers and all of our systems Y2K compliant. Let's get the problem fixed. But let's also have a safety net in order to ensure justice for those who have problems.

I want to say to my friend from North Carolina, the distinguished Senator, that he talked about how companies that are big and bad are going to get off the hook; they are going to get a free ride, and, again, you are not going to get anything except the cost of the computer.

Let me tell you what the hooks are for those that are big and bad. If you are ripping people off, you are going to get stuck with joint and several liability. You are going to get stuck with punitive damages. That is what happens under this legislation when you are big and bad.

But what we say in the many cases where we don't have that kind of conduct—the Senator from North Carolina and I certainly agree on this point—is you will be liable for the proportion of the problem that you caused. We say that the small businesses deserve a break on punitive damages.

But let's make no mistake about it, colleagues. If you are big and bad, the hooks in this bill are clear. Nobody is getting off the hook. You get stuck with joint and several liability. You can be held for punitive damages. That is in the text of this legislation.

There is a reason, colleagues, why the little guy is for this bill. There is a reason why the overwhelming number of small businesses in this Nation are for the bill. It is that those risk takers, those entrepreneurs, those innovators are saying, as we take the steps to make our systems Y2K compliant, let's also have a safety net so if there are frivolous lawsuits that we aren't going to lose everything as a result.

This bill has seen 11 major changes to favor the consumer, the plaintiff, and small businessperson since the legislation left the Senate Commerce Committee. I particularly want to credit the chairman of the committee, Senator MCCAIN, and the Democratic leader on the technology issue, Senator DODD, who have worked so hard to help fashion this proposal.

I hope today when we vote that we will not send a message that high technology doesn't deserve the same kind of treatment that airlines get, that the securities industry gets, that the financial services sector gets. Let's pass this bill. Let's send it to the conference with a resounding vote.

I yield the floor.

UNANIMOUS CONSENT AGREEMENT—H.R. 1664

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that prior to the cloture vote on the motion to proceed to H.R. 1664 there be 10 minutes of debate equally divided between Senators NICKLES and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the agreement regarding H.R. 1664 be amended to add 5 minutes for Senator DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I yield the floor.

Y2K ACT

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. I yield 2 minutes to the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I would like to respond very briefly to my colleague from Oregon, Senator WYDEN.

First, I point out that based on my study of the issue it appears to me that virtually every consumer group which is composed of, among others, small businesspeople around this country is opposed to this bill.

Second, and more importantly, Senator WYDEN said—I am quoting him—that the ''bill permits recovery of damages for foreseeable consequences.''

I say with all due respect to my colleagues that is exactly what the bill does not permit. That language appears nowhere in this bill. I challenge him, since he has made that statement, to find the language in the bill that says ''damages for foreseeable consequences.''

Mr. WYDEN. Will my colleague yield?

Mr. EDWARDS. I will.

Mr. WYDEN. I appreciate that. Of course, that is what many contracts say. That is the economic loss rule. We say that the rights that apply are the rights of contracts, which most small businesses enter into when they buy the system. It is the State economic loss rule. State contract law with respect to economic loss covers those issues.

I appreciate him yielding.

Mr. EDWARDS. My response to that is, first of all, the vast majority of the computers are not bought pursuant to a written law in contract, because most folks are not able to hire a team of lawyers to draft a contract on their behalf. So the contracting is a meaningless concept, except as between one

big company buying the computer system from another big company. Otherwise, contracts don't exist. In the absence of a contract, this bill eliminates recovery of economic losses.

It is that simple. They do not allow for the recovery of damages that are the result of foreseeable consequences.

It is a huge, fundamental problem with this bill. It will not allow people to recover anything but the cost of their computer. That is what the bill says.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. I yield 5 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I say thanks to my friends, Senator HOLLINGS and Senator MCCAIN. They worked very hard on moving this piece of legislation through.

I really like the premise of this bill. As a matter of fact, when I saw there was a bill introduced, and there were several that gave a 90-day cooling off period where we can fix the Y2K problem, I thought, there is a great idea. But the more I got into it, the more I saw the consumers being trampled on.

That is not the way my friend from Oregon sees it. I have the utmost respect for him. We just simply disagree. I say: How do you know who is right? I harken to what Senator EDWARDS said. Every consumer group is against it. They don't like taking on lost causes that they are going to lose.

This bill is going to pass overwhelmingly. Why would consumer groups step up to the plate and say it is wrong? Because in their heart they know the bill goes too far.

I am just going to give you three examples of what happened to this bill when it came to the floor. I am going to pick out three amendments as examples as to why this bill moved over so far to the anticonsumer.

Take one of the amendments of Senator EDWARDS. My friend offered an amendment that simply said that if you sell a computer in the year of 1999, or you sell software, and it is supposed to be Y2K compliant and something happens, you should get the protection of the underlying bill.

Why should we protect people who sell a computer to an ordinary person, or a small business, or sell software in the year of 1999, I say to my friend, as late as November of 1999, and then, whoops, it goes wrong, and in the year 2000 you still get the protection of this bill? I don't get it. It goes too far.

Then we have the Boxer amendment supported by a number of my friends.

What did that say? In the remediation period of that 60 days after you have notified the computer company or the software company that you have a failed product, they have to fix it, if they have a fix.

We had 31 votes or something like that. Where are the voices of the consumer in this Senate? It is perplexing to me. We showed at that time the law of the State of Arizona, a law on Y2K protecting their computer people, as well. Guess what. It said in the remediation period, you must offer a fix to the people.

If this is supposed to cure the problem, how are we curing it when we vote down the Boxer amendment, which said if there is a fix, fix the computer, fix the problem?

Today, we have the Gregg amendment. If I am correct, it is my understanding that the Gregg amendment will be accepted; is that correct?

Mr. HOLLINGS. I don't know. I had not discussed it with the distinguished Senator.

Mrs. BOXER. If it is accepted or we know they will pass because they all are passing, what does the Gregg amendment do? Under the Gregg amendment, if your small business makes a certain chemical and has to live by the rules of the Environmental Protection Agency regarding dumping of that chemical, but your computer goes on the fritz—I don't mean that in a derogatory way—your computer breaks down, guess what. Under the Gregg amendment you don't have to live by the environmental laws. Dump that stuff anywhere, because you will get a waiver which says the problem was my computer went down and, therefore, I can't live within the environmental laws.

This is amazing.

I have given the Senator three examples of how every proconsumer amendment has been voted down and every amendment that flies in the face of good government has moved forward. I am totally shocked and chagrined that we could not even pass the simplest amendments.

I see my friend from Vermont is here. I yield the floor.

Mr. HOLLINGS. I yield the remainder of my time to the Senator from Vermont.

Mr. LEAHY. Mr. President, earlier I came to the floor to show what happens in an actual case today under the law.

In a case in Warren, MI, a man bought a $100,000 computer system and it was not Y2K compliant. He almost lost his business. However, he was able to follow the State laws we have today. He was able to use State law, enforce it, and save going into bankruptcy, save being out of business.

Under the law before the Senate today, instead, here is what would happen. Rather than a straight line of protection for that small businessperson, here is the way it goes: dead end, dead end, roadblock, roadblock, dead end, dead end, roadblock.

Now they say they have cured it. What did they do? They took off one of the roadblocks.

Look at this chart. The roads in Kosovo are easier to drive through than the roads on this so-called Y2K ''correction'' bill.

I wish we did what we did last year. We had a good Y2K bill. The information-sharing law, S. 96, was done in a truly bipartisan way. It passed virtually unanimously. It was signed into law.

Now we have a bill, instead of making efforts to bring all parties together to have a bill the President could sign, we have something we know the President will veto, and he will veto it because of these dead ends, because of these detours, because of these roadblocks, because the court door is slammed, and because it wipes out every single State law in this country—all 50.

Mr. President, a few months ago, I came to the Senate floor to take a look at what this Y2K liability bill will actually do in a real life situation. I had a similar chart with me at that time.

Since then, we have heard some of my colleagues praise the so-called compromise on the Y2K liability protection bill. I have adjusted my chart to take into account the changes made to S. 96. You can see that this new so-called compromise eliminated only one road block on the road to justice. The ''compromise'' dropped liability protection for officers and directors of corporations that have Y2K computer problems. All these other special legal protections are still in S. 96.

Let's take a closer look at my chart under the modified S. 96. The chart still illustrates the many detours, roadblocks and dead ends that this bill would impose on a innocent plaintiff in our state-based legal system. Let's take a real life example of a Y2K problem and see what would happen under the sweeping terms of this new bill.

A small business owner from Warren, Michigan, Mark Yarsike, testified this year before the Commerce and Judiciary Committees about his Y2K problems. In 1997, he brought a new computer cash register system for his small business, Produce Palace, that was not Y2K compliant. Naturally, he assumed his new cash register system would be Y2K compliant. But it was not.

His brand new high-tech cash register system, which cost almost $100,000, kept crashing. After more than 200 service calls, it was finally discovered that his computer cash register system kept breaking down because it could not read credit cards with an expiration date in the year 2000. A Y2K computer defect that would be covered under this so-called ''compromise'' bill.

At the top of this chart is how the state-based court system works today for Mark Yarsike. His business buys a new computerized cash register system and a Y2K defect crashes the system. He then asks the cash register company to fix the system. If Congress rejects current Y2K liability legislation, a small business owner has two options under traditional state law.

The cash register company agrees to solve the Y2K problem and the small

business owner has a quick and fair settlement.

If the company fails to fix the cash register system with the Y2K defect, then a small business owner has the option to have his day in court and proceed with a fair trial. That is what Mark Yarsike did. He was forced to buy a new computer cash register system from another company and sued the first company that sold him the non-Y2K compliant system. He was able to recoup his losses through a fair settlement.

Today's court system worked for him.

Now what happens to that same small business owner who brought a Y2K defective computer cash register system under the bill before us. Well, the current ''compromise'' bill overrides the 50 state laws and places new Federal detours, roadblocks, and dead ends from justice for that small business owner. Let's take another look at the chart.

If Congress enacts this Y2K liability protection legislation that overrides state law, the small business owner faces all these special legal protections on his road to justice.

The bill's sweeping legal restrictions include—90 day waiting period, preservation of unconscionable contracts' terms, heightened pleading requirements, new class action requirements, duty to anticipate and avoid Y2K damages, override of implied warranties under state law, caps on punitive damages, limits on joint and several liability, and bystander liability protection. All these special legal protections still apply to small business owners and consumers under this so-called ''compromise.''

All these dead ends on the road to justice may force a small business owner, like Mark Yarsike, to file for bankruptcy or lay off employees.

The bill contains severe limits on recovery by capping punitive damages to 3 times the amount of compensatory damages or $250,000, whichever is less, for medium-sized and small businesses. The sponsors of this ''compromise'' have touted the fact that they struck the looser punitive damages cap for larger businesses that was in the bill. I agree that this is an improvement, but it comes with another troubling compromise.

The bill now defines small businesses as firms with fewer than 50 employees, instead of firms with fewer than 25 employees, which was the definition in the original bill. As a result, the absolute cap of $250,000 on punitive damages now applies to many more businesses without any justification. Never before in any product liability tort ''reform'' bill has a small business been defined so broadly.

An exception to this punitive damages cap has been added if a plaintiff can prove that the defendant intentionally defrauded the plaintiff. Of course, the plaintiff must prove this by a higher standard of proof than normal—by clear and convincing evidence. Even the legal standard to prove an exception is stacked against the plaintiff under this bill.

This exception will prove meaningless in the real world because no one will be able to meet this exception for proving the injury was specifically intended. How in the world is our small business owner going to prove that the cash register company intentionally tried to injury him by selling a Y2K defective cash register system? How in the world is our small business owner going to prove this specific intent by clear and convincing evidence? Get real.

As a result, the small business owner who is harmed by the Y2K defective cash register system may be forced into bankruptcy or lay off employees.

To the credit of the sponsors of this ''compromise,'' they have struck the last road block in the original bill—special liability protection to directors and officers of companies involved in Y2K disputes. I commend them for striking this section. Providing special Y2K liability protection to the key company decision makers would hinder Y2K remediation efforts. Instead, we want to encourage these key decision makers to be overseeing aggressive year 2000 compliance measures.

I hope special legal protections for corporate officers and directors does not resurface in the final bill after conference with the House.

A few of these detours, roadblocks and dead ends in this so-called ''compromise'' may be justified to prevent frivolous Y2K litigation. But certainly not all of them.

This bill makes seeking justice for the harm caused by a Y2K computer problem into a game of chutes and ladders—but there are only chutes for plaintiffs and no ladders. The defendant wins every time under the rigged rules of this game.

Unfortunately, this so-called compromise bill still overreaches again and again. It is not close to being balanced.

During Senate consideration of S. 96 last week, some of my colleagues and I offered amendments to add some balance to this bill. But the majority defeated every one.

Senator JOHN KERRY offered an alternative, which was endorsed by the White House. The President would sign Senator KERRY's bill tomorrow, but the majority voted it down.

I offered a consumer protection amendment to exclude ordinary consumers from the bill's legal detours, road blocks and dead ends. My amendment would have granted relief from the bill's broad Federal preemption for ordinary consumers to access their home state consumer protection laws. But the majority voted it down.

Senator EDWARDS offered two amendments to add balance to the bill. The first clarified the bill's economic loss section to ensure that recovery would be permitted only for claims allowed under applicable state or Federal law effective on January 1, 1999. The second excluded bad actors from the bill's special legal protections if they sold non-Y2K compliant products in 1999. But again the majority voted down these amendments.

Senator BOXER offered an amendment for computer manufacturers to offer free or at-cost fixes to small businesses and consumers who had purchased Y2K defective products as a requirement for these same computer manufacturers to be protected under S. 96. This amendment would have added real balance to the bill. But the majority voted it down.

The prospect of Y2K computer problems requires remedial efforts and increased compliance. But as last week's delay in voting on final passage of S. 96 made clear, this bill is not about promoting Y2K compliance; it is about sweeping liability protection and partisan politics.

I fear that all the special legal protections for Y2K problems in S. 96 will hinder serious Y2K remediation efforts in 1999. Instead of passing protections against future lawsuits, Congress should be encouraging Y2K remediation efforts during the last six months of 1999. We have to fix as many of these problems ahead of time as we can. Ultimately, the best business policy and the best defense against Y2K-based lawsuits is to be Y2K compliant.

That is why I hosted a Y2K conference in Vermont to help small businesses prepare for 2000. That is why I taped a Y2K public service announcement in my home state. That is why I cosponsored Senator BOND and Senator KERRY's new law, the ''Small Business Year 2000 Readiness Act,'' to create SBA loans for small businesses to eliminate their Y2K computer problems now. That is why I introduced, with Senator DODD as the lead cosponsor, the ''Small Business Y2K Compliance Act,'' S. 962, to offer new tax incentives for purchasing Y2K compliant hardware and software.

These real measures will avoid future Y2K lawsuits by encouraging Y2K compliance now.

Last year, I joined with Senator HATCH to pass into law a consensus bill known as ''The Year 2000 Information and Readiness Disclosure Act.'' We worked on a bipartisan basis with Senator BENNETT, Senator DODD, the Administration, industry representatives and others to reach agreement on a bill to facilitate information sharing to encourage Y2K compliance.

The new law, enacted less than nine months ago, is working to encourage companies to work together and share Y2K solutions and test results. It promotes company-to-company information sharing while not limiting rights of consumers. That is the model we should use to enact balanced and narrow legislation to deter frivolous Y2K litigation while encouraging responsible Y2K compliance.

Unlike last year's Y2K information sharing law, S. 96 is not narrow or balanced. Instead it is a wish list for special interests that are or might become involved in Y2K litigation.

This bill sends the wrong signal to the business community about its Y2K remediaton efforts. It is telling them; ''Don't worry, be happy.'' That will only make Y2K computer problems worse next year, instead of fixing them this year.

The coming of the millennium should not be an excuse for cutting off the rights of those who will be harmed, turning our States' civil justice system upside down, or immunizing those who recklessly disregard the coming problem to the detriment of American consumers.

I remain open to continuing to work with interested members of the Senate on bipartisan, consensus legislation that would protect consumers, deter frivolous Y2K lawsuits and encourage responsible Y2K compliance. S. 96 is not that bill.

The President will veto S. 96 in its present form, as he should. Then perhaps we can sit down with all interested parties and craft a truly balanced bill.

Those of us in Congress who have been active on technology-related issues have struggled mightily, and successfully, to act in a bipartisan way. It would be unfortunate, and it would be harmful to the technology industry, technology users and to all consumers, if that pattern is broken over this bill.

Mr. MCCAIN. I yield 8 minutes to the Senator from Alabama, Senator SESSIONS.

Mr. SESSIONS. Mr. President, I am pleased to have the opportunity to comment on this extremely important bill. I congratulate Senator MCCAIN for his leadership. I am confident it will pass with a strong vote.

This morning we completed our second day of a joint economic committee on the high-tech national summit. We have heard some of the leading practitioners of computer business in America, including Alan Greenspan and the president of MIT, and we have discussed the tremendous role computers and high-tech equipment have played in the economic growth of this country.

Most people may not know that for a number of years the average wage of Americans has been increasing twice as fast as the cost of living. That is exactly what we want in America. We want productivity. That occurs because of an increase in the productivity of our workforce.

Mr. Greenspan, who everybody recognizes is such a knowledgeable person about our economy, attributes that primarily to the increased productivity that has come from being on line with our computer systems.

Experts, including Bill Gates of Microsoft, talked about the leading exports from the United States being computer related.

This is good for America. We are buying more than we take in. We are selling less than we buy. We need to change that. We need to increase our exports. The one industry that is strong in that record is the computer industry.

Craig Barrett of Intel testified yesterday. I asked him about the Y2K bill. He said it was critical for their industry to maintain economic growth.

Some say they can pay, and we can sue and sue. I know one Senator mentioned a case, and I believe it was the same case, in which a man testified before the Senate Judiciary Committee. He had filed a lawsuit over the computers in his company. He eventually won. I asked him how long it took. The litigation took 2 years.

With regard to asbestos, we have 200,000 lawsuits completed, 200,000 pending, with another 200,000 expected. They are filed all over this country. Do we want hundreds of thousands, perhaps even a million or more, lawsuits filed in every court in America, with every single case clogging those courts, distracting the computer companies from fixing the problem, trying to defend against the litigation with punitive damages and other unexpected costs that somebody might claim in a lawsuit?

We need to act. It is the responsibility of Congress to set the standards for lawsuits. We have every right to do that. That is what the legislative branch does.

We have an industry that deals throughout the United States. It deals throughout the world. We need to make sure it fixes the problem—and focuses on fixing the problem, not on draining its resources.

With regard to asbestos, 70 percent of the asbestos companies are now in bankruptcy, and of the money they paid out through this litigation onslaught, only 40 percent actually got to the victims.

What I think this bill is intended to do, with strong bipartisan support, is to make sure the moneys these companies spend are spent on fixing the problem. The idea that somehow joint and several liability is horrible is not so. Many States already have joint and several liability in every aspect of their legal system. We are simply saying for this one problem we will have joint and several liability. Frankly, I think that is the better way to go. Why should a company that is not responsible but for 10 percent of the problem pay the whole cost of the problem? What is just about that? I don't think that is a good argument.

We have a potential crisis in our country. We have the potential, make no mistake about it, to significantly damage our highest and most productive industry, the industry that has led to our economic growth and increased wages for American workers. We are endangering that community. If anyone thinks hundreds of thousands of lawsuits filed against all our computer companies in every county in America will not drain them of creativity, will not drain them of research and development, will not reduce their ability to be competitive in the world, I suggest that person is clearly wrong.

I thank Senator WYDEN and Senator DODD, on that side, and Senators MCCAIN and HATCH, who have worked on this bill. They have done a good job, and I am pleased to support it.

I yield the floor.

Mr. KYL. Mr. President, I support S. 96, the Y2K Act of 1999. The subject of Y2K liability is an important and timely issue for the Senate to address. As you know, I serve on the Senate Special Committee on the Year 2000 Technology Problem. Earlier this year, the Committee held a hearing examining Y2K litigation and its potential effect on the courts. A study by the Gartner Group estimated that the cost of Y2K-related litigation could reach $1 trillion.

The issue of liability is especially important to me. Last Congress, I sponsored the Year 2000 Information and Readiness Disclosure Act, which became law. That legislation encouraged companies to disclose and exchange information about computer processing problems, solutions, test practices, and test results that have to do with preparing for the year 2000. The goal of the bill was to encourage information sharing, which would in turn lead to remediation, which would in turn lead to greater Y2K compliance. Unfortunately, many companies still fear liability, and it is that fear of lawsuits that is inhibiting them from getting done what is needed—which is remediation. The goal of S. 96, like that of the Year 2000 Information and Readiness and Disclosure Act, is to ease the fear of lawsuits so businesses can focus on remediation rather than litigation.

S. 96 is the second major Y2K bill passed by the Congress. Earlier this year, the Senate passed (by a vote of 99 to 0) the Small Business Y2K Readiness Act, which became law on April 2. The bill directed the Small Business Administration to establish a loan guarantee program to guarantee loans of up to $1 million for small businesses to fix their computers or tackle other Y2K-related problems.

S. 96 enjoys bipartisan support and the backing of a broad coalition of business groups—large and small—including the U.S. Chamber of Commerce, the Information Technology Association of America, the National Retail Federation, the National Association of Independent Business, the Semiconductor Industry Association, to name a few. The bill provides incentives for fixing Y2K problems before failures occur and it encourages the prompt resolution of Y2K problems if they do occur.

Finally, I commend my colleague from Arizona, JOHN MCCAIN, for his tireless efforts in navigating this bill through the Commerce Committee and for his repeated attempts to secure its

passage on the Senate floor. S. 96 will provide much needed protection against a potential flood of lawsuits against the nation's business community and I look forward to its prompt signature by the President.

Mr. THOMPSON. Mr. President, I rise in opposition to S. 96, the Year 2000 liability legislation. The problems caused by faulty computer software on January 1, 2000 may be severe, and some legislation addressing that problem may be warranted. Although I had concerns about S. 96 as it was originally offered, I supported invoking cloture on the bill because I wanted to see the compromise process continue so as to possibly improve the legislation. But even the modified bill would cause the litigation nightmare that it ostensibly seeks to avoid.

Were this bill to become law, both State and Federal courts would be required to resolve disputes resulting from Year 2000 failures not under familiar legal standards developed over 200 years, but by applying new legal terms and definitions, or terms never before applied to this context. As a result, vast amounts of litigation will be required to establish the meaning of those terms, and various State and Federal courts are certain to adopt different views of the same language.

For instance, the bill applies to injuries that result ''directly or indirectly from an actual or potential Y2K failure.'' Because it would be in the interest of defendants to apply the liability shields contained in this bill as widely as possible, many types of cases certainly will be characterized as ''result[ing] directly or indirectly from an actual or potential Y2K failure.'' Pre-trial motions, trial court rulings, appellate court decisions, and ultimately, appellate court rulings to resolve conflicting appellate court rulings will be necessary before the scope of cases actually covered by the bill is finally determined. Courts will consume years determining the meaning of other operative terms, such as ''material defect,'' or deciding precisely what factors are relevant in assessing ''the nature of the conduct.''

Although punitive damages have been a staple of the common law, this bill would impose a punitive damages regime never before adopted in any jurisdiction. While some States have adopted caps on punitive damages for noneconomic damages in personal injury cases, this bill represents the first time that a law would cap punitive damages with respect to property damage. No one has offered a compelling reason for this course. And no one can predict what the consequence will be of a blanket Federal rule on this subject in the absence of any State experiences with this approach.

The bill's effects on the procedures for resolving cases are equally serious. It would permit a defendant to respond to a complaint by indicating a willingness to engage in alternative dispute resolution. But the bill makes no provision for the actual availability of alternative dispute resolution in federal courts that lack them, nor does it ensure the use of State ADR procedures. And federal law would control the pleading requirements even of State law causes of action brought in state courts.

Additionally, I am concerned about the effect this bill would have on small businesses. Unless a small business is in the computer business, its exclusive role in Year 2000 litigation will be as a plaintiff, not a defendant. But this bill provides benefits only to defendants, benefits that would be of no use to most small businesses. At the same time, it denies otherwise available legal rights to small business plaintiffs. Apart from restricting their right to recover punitive damages, small businesses who currently could bring an action against a landlord who fails to provide working elevators so that customers and employees can reach their offices would not be able under this bill to sue the landlord if he for failed to take action now to make sure that those elevators will work on January 1, 2000. The landlord's relief from liability will both increase the chances that a small business' elevator will not work and decrease the recovery that the small business can obtain if in fact the elevator does not work.

Similarly, a small business that bought a computer that did not work now has the right to obtain consequential damages from that failure. If the business had to shut down because of the failure, the business owner could recover the lost profits for the period that the defective computer caused the shutdown. But under this legislation, all that the business owner who files a tort and contract lawsuit could obtain is recovery for damage to the computer itself. No compensation would be permitted for real injuries that the owner faces. There is no reason to impose this hardship on a small business that bought a product that it had every reason to believe would work. There is no reason to increase the protection of the company that did not take the appropriate steps to ensure Y2K compliance as against the workers who will be laid off because the small business cannot continue to operate.

Even though the bill does preempt state law in a number of areas, federal action might be appropriate to address a unique event such as the Year 2000 problem. There could in fact be a large volume of litigation that could overwhelm courts. But this bill is not an effective means of addressing that possible calamity. Reducing in advance the exposure of people who made non-Y2K compliant products will reduce neither the scope of the computer malfunctions nor the number of lawsuits. Restrictions only on the ability of plaintiffs, such as individuals and small businesses, to recover damages, no matter how meritorious their cases, is not warranted. S. 96 will create many new issues to litigate, increase the likelihood that the Year 2000 problem will be great rather than small, and harm the ability of innocent persons to recover that which their states legally entitle them to retain. These are not desirable objectives, and for these reasons I oppose this bill.

Mr. KERREY. Mr. President, the debate surrounding Y2K Liability is a very important one. The estimated cost associated with Y2K issues vary greatly, ranging from $600 billion to $1.6 trillion worldwide. The amount of litigation that will result from Y2K-related failures is uncertain, but at least one study has guestimated the costs for Y2K related litigation and damages to be at $300 billion.

With that in mind, several bills have been drafted which encourage companies to prevent Y2K failures and to remedy problems quickly if they occur, and to deter frivolous lawsuits. It has essentially boiled down to 2 bills: the McCain-Wyden-Dodd bill, and the Kerry bill. Many of the provisions within the bills are the same; however, there are a couple of issues that warrant discussion.

I have studied these bills closely. And for me, what it all comes down to is two simple questions: Which bill provides more of an incentive for computer companies to identify and remedy potential Y2K problems? And, second, what effect will this legislation have on consumers?

First. Which bill provides more of an incentive for computer companies to identify and remedy potential Y2K problems? To answer that question, one needs to understand what the backers of this bill are so concerned about. The people that are pushing for this bill, namely, some of the computer companies and big business, are not afraid of me. They are not afraid of what Congress might do to them. What they are concerned about, and what they are afraid of, is 12 men and women on a jury. They are afraid of what a jury might do to them if they are sued and their case ends up in court before a jury.

Let me be clear: I do think this Y2K liability is a special situation and believe that we should provide computer companies with some type of certainty and protection from these lawsuits. That is why I want to pass one of these bills. However, I think we need to be careful that the protections we provide aren't so great that companies no longer have an incentive to fix their Y2K problems.

So, when I hear people asking to ''cap'' the amount of punitive damages that can be imposed against them, I can't help but to wonder, ''Why do you need to worry about that? The only time punitive damages are awarded is if the person has done something flagrantly wrong.''

Similarly, proportionate liability, which provides assurances to the defendant on how much money he would have to pay the plaintiff, is fair and reasonable for most defendants, but

not all defendants. Under the Kerry bill, only good corporate citizens will have the benefit of proportionate liability. Under the McCain bill, all corporate citizens, no matter whether they act in good faith or bad faith, will be rewarded with proportionate liability.

Computer companies must have an incentive to identify and remedy potential Y2K problems. If we pass the McCain bill, which both caps punitive damages, and rewards all corporate citizens, both good and bad, with proportionate liability, I believe that would provide a disincentive to remedy potential Y2K problems.

Therefore, the answer to the first question is clear: the Kerry bill provides more incentive for computer companies to identify and remedy potential Y2K problems.

Second. The second question I had to answer is what effect will this legislation have on consumers? To answer that question, we need to look at one provision in particular: the economic loss provision. The economic loss provision has to do with whether a small business owner or the consumer is allowed to recover for lost profits, lost overhead, and out-of-pocket costs.

The McCain bill bars the recovery of economic losses for businesses in all Y2K contexts. The economic loss rule that I support, and the rule followed in most jurisdictions, says that if the parties have agreed by contract about the allocation of loss, then that agreement should govern. If there is no contract, then state law would apply.

What does this mean? It means that under the McCain bill, consumers and small businesses are going to be at a disadvantage. To illustrate, let's look at a very practical example that would apply to many small businesses in Nebraska. A businessman wants to open a flower shop. He goes into a computer store and talks to a computer salesman. That salesman tells the businessman that the computer is Y2K compliant and that come January 1, 2000, the computer will be fine. The businessman buys the computer for $5,000. The flower shop opens and is doing great. On January 1, 2000, the computer crashes and can not be fixed for four weeks. The businessman relies on his computer for almost everything, including as a cash register, a client database, and record keeping. As a result of the computer crash, his business is severely affected—he pays bills late, he can't meet payroll, and he loses customers, costing him a total of $75,000. Under the McCain bill, the only damages the businessman can recover are the cost of the computer, $5,000. The economic loss rule I support, the Edwards amendment, would allow the businessman to make a case as to why he should be able to recover at least some of his lost profit. Thus, to answer to the second question, the McCain bill would unfairly place small businesses and consumers at a disadvantage to computer companies.

Because of these reasons, I will cast a vote against the McCain Y2K Liability bill. I want to reiterate that I support the goals of this legislation—I want computer companies to have an incentive to identify and remedy potential Y2K problems, and I don't want there to be an onslaught of frivolous lawsuits beginning on January 2, 2000. Unfortunately, I do not believe the McCain bill in its current form is the proper way to address these issues.

If these issues are properly addressed in conference, I will support the conference report. Until that happens, although the McCain bill may achieve its goal of eliminating frivolous lawsuits, I believe this comes at too high a price to our small businesses and consumers.

Mr. ROCKEFELLER. Mr. President, the overriding point to be made today is that the vast majority of the Senate, Democrats and Republicans, and the White House, agree on the need for legislation to encourage Y2K readiness and to prevent frivolous litigation.

We all agree that there is likely to be a surge in Y2K related complaints and lawsuits and that everyone will benefit if many of those cases can be dealt with outside the courtroom. We agree on the need to encourage consumers and businesses to use remediation to fix Y2K problems and to use negotiation to settle disputes.

Where we differ is on the details of how to get there. And let me assure you from my 11 years of experience as a proponent of product liability reform—the details matter.

And the details should matter. In liability reforms, and especially tort reforms, what's at stake is the basic balance between plaintiffs and defendants, consumers and business, injured and responsible parties. Our state courts and legislatures have struggled for several hundred years to get that balance right. If we're going to change their work then we have a responsibility to work hard at getting the details right, too.

Senators KERRY and DASCHLE deserve a great deal of credit for wading into the middle of the Y2K liability reform issue. I've been in their shoes before, and I know how hard it is to try to find the middle ground. It is no easy feat to craft a bill that protects consumers, gives business the predictability and relief from frivolous suits they deserve, wins the support of the majority in Congress, and would secure a presidential signature.

Senators KERRY and DASCHLE came up with a bill that gives the high-tech community about 80 percent of what they want, that meets every one of the objections outlined by the White House, and that won 41 votes in the Senate last week. I voted for that bill.

Forty-one votes, including the votes of many Senators who hold strong reservations about federalizing any part of our tort liability system at all. Forty-one votes shows us in plain terms that there is obvious overlap on the core issues and principals of this bill, and on a good many of the details.

What is so regrettable is that even after our negotiating a bill that gives most stakeholders most of what they say they need, my Republican colleagues and much of the business community would rather have an issue than a bill. A negotiated compromise that gives them 80 percent of what they want but also keep the courts open to legitimate claims apparently isn't enough.

So rather than achieve a major portion of their goals for the year 2000, they've decided to put all of us through an exercise that will result in nothing. Believe me, I've been down this road before. I know these issues, I know these stakeholders, I know the vote counts, and I know this White House on liability reforms. And I know what the outcome will be if we continue down this dead-end path.

What baffles me is to see the business community, once again, choose nothing. Haven't we learned from years of legislating on liability reforms that purists come away emptyhanded?

The bottom line is that the bill before us today is simply too far afield of what's doable. And the best way to get back on course for enacting a Y2K law is to vote against this bill and sit down at the negotiating table.

Unlike the never-ending products liability debate the opportunity to deal with Y2K suits won't last long. We can't afford to get it wrong. And we don't have time to pass a bill that we know will be vetoed and then come back to the drawing board.

I urge my colleagues not to squander this opportunity.

Mr. WYDEN. Mr. President, I rise today to ask my colleague, the Senator from Oklahoma, Senator INHOFE, a few questions regarding his amendment Thursday to the Y2K Bill.

Mr. INHOFE. I thank my colleague from Oregon, Senator WYDEN, and I am pleased to answer any questions he might have.

Mr. WYDEN. The Senator's amendment refers to temporary non-compliance with ''federally enforceable requirements'' because of factors related to a Y2K failure beyond the control of the party charged with compliance. Could the Senator provide an example of such a federally enforceable requirement so that this Body can understand the practical scope of the Senator's amendment, especially what would and would not be an imminent threat to health, safety or the environment that would bar the use of the defense?

Mr. INHOFE. I would be pleased to. An example of a use of the defense that this amendment would provide would be a federally enforceable reporting requirement on an energy facility. Suppose a plant operator is vigilant at the controls of a conventional power plant. At the stroke of midnight New Year's the plant is operating smoothly, and power is being transmitted to homes, hospitals, and nursing homes right on schedule. Further, the operator can see clearly that the environmental machinery that cleans emissions such as

sulfur dioxide (an acid rain precursor) or nitrogen oxides (a contributor to smog) is operating normally in every respect save one. The computer readout from the continuous emissions monitor at the top of the smoke stack does not seem to be transmitting or storing the emission data verifying that equipment is otherwise in normal function. Repairing the bug in the monitor transmitter may take a few days over the holiday weekend.

Without my amendment the plant operator faces a terrible choice. Does he shut down the whole plant and let the people in the nursing homes freeze in the dark, or does he run the risk of severe sanctions for disregarding a requirement that he provide government agencies an unbroken chain of emission monitor print-outs? Mind you, he knows the pollution is being controlled as usual because he or she has hands on the equipment. With my amendment, the plant could keep operating, nobody's lights would have to go out unless—and this is key—doing so does not threaten public health, safety, or the environment. This is not a holiday from environmental quality laws.

Mr. WYDEN. Could the Senator also provide an example of when the defense would not apply?

Mr. INHOFE. Certainly, suppose the power plant were nuclear and—this time—a temperature gauge is broken and the operator does not really know whether the plant is operating in safe mode or not. In such a case, the operator could not, under my amendment, ''drive in the dark with no lights on.'' Clearly operating in such a fashion that could pose a risk to health, safety, or the environment would receive no protection under my amendment, and no sympathy from me.

Mr. WYDEN. What does the phrase ''federally enforceable requirements'' mean? Is it broader than federal requirements?

Mr. INHOFE. It is broader only in the following respect. Many federal standards are actually implemented in collaboration with states. For example, it could technically be a state-issued monitoring and data recordation and reporting program that is enforceable federally.

Mr. WYDEN. I thank the Senator from Oklahoma for clarifying his amendment and I thank him for his work on this issue.

Mr. INHOFE. I appreciate the Senator from Oregon's interest in my amendment and I thank him for his support and assistance in getting my amendment accepted.

Mr. BYRD. Mr. President, in little more that six months time, each and every American is going to be impacted by one of the simplest, yet most complex technological problems we have ever faced. The so-called Y2K computer problem—simple to understand, but enormously complex in terms of its solution—has the potential to adversely affect every facet of our lives. Yet, while no one can say with absolute certainty what consequences will flow from the new year, there is one thing our litigious nation can be sure of: Come January 1st, many Americans will seek redress in our nation's courtrooms.

At the very time when businesses will need to focus their attention on mending computer problems and helping others deal with service disruptions, too many companies will, unfortunately, find themselves distracted from that important task by the threat of legal action. Equally troubling is the possibility of hundreds of thousands of law suits being brought in a matter of weeks or months; a situation which could simply overwhelm our judicial system.

Consequently, I am concerned that, unless we act now, our legal system may not be able to adequately address the ramifications of the new year in an efficient, fair, and effective manner. But beyond the courthouse doors, I am also deeply concerned about the potential long-term effect on our nation's computer industry.

Mr. President, a generation ago, the United States was the world's preeminent producer of manufactured goods. At one time, we were unrivaled in our construction of automobiles, aircraft, consumer electronics, communications equipment including satellite technology, and steel, to name but a few. For various reasons, though, we have lost our dominant position in each of these important areas. No longer do foreign companies immediately look to the U.S. when seeking to purchase an airplane or a role of steel. And no longer do consumers around the world automatically purchase an American-made television, an American-made radio or an American-made camera. Those days are gone.

Yet, despite that circumstance, unsettling as it may be, the fact remains that the United States is predominate in the world of computers and computer technology. Companies such as IBM, Microsoft, Intel, and Compaq, are household names around the world, and for good reason. They, among many others, are American success stories that have produced enormous benefits to our nation's economy and provided our workers with good, high-paying jobs.

Like many of my colleagues, I am troubled by the fact that some small businesses may suffer as a result of a Y2K failure. But it also troubles me to think that we may be on the verge of litigating our computer industry into submission. Where are we if, in our zeal to place blame, we cripple these corporate entities, some of which may be big and rich, but most of which are small? And how do we preserve what may be our last industrial stronghold if we are willing to treat the overwhelming majority of these companies, which have worked diligently and in good faith, the same way we treat those few unscrupulous firms that do not wish to accept their responsibilities? I believe that the protections afforded small business in the bill, while not as I would have written them, are adequate.

We must acknowledge that what is at stake here is of enormous long-term importance to the economic well-being of every American. Each of us has a duty to ensure that our technological and industrial base flourishes, not just in the coming months, but for decades. In weighing those factors, I sincerely hope that my colleagues will come to the same conclusion as I and support this legislation for the good of our economy, our workers, and our nation.

Mr. KOHL. Mr. President, we should act both to deter frivolous litigation over Y2K defects and to encourage Y2K fixes, but this bill will create as many problems as it solves. Instead of merely establishing incentives to address Y2K defects, several provisions in this bill could, perversely, discourage companies from acting responsibly and reward those who silently —and inexcusably—wait for defects to happen rather than cure them before disaster strikes. In short, I will oppose this measure because it fails to strike the right balance.

To be sure, the bill has improved from earlier versions, and some sections—like class action reform to curtail frivolous lawsuits and a 90-day waiting period to promote remediation instead of litigation—are steps in the right direction. Still, provisions like limits on punitive damages and a one-sided duty on consumers to anticipate all Y2K defects give businesses an excuse to continue doing nothing because even the bad actors end up with a lower risk for liability. And provisions like the elimination of ''joint and several'' liability, which I have supported in other contexts, seem out of place here where remediation is the heart of the matter. In other words, if a company isn't fixing a defect when it could be 100 percent liable, why should limiting its liability to a fraction of that be anything but a disincentive to take corrective steps?

While this issue has become a political football here in Washington, it doesn't play the same way in Wisconsin, where we know how to play football. Our home State businesses are concerned about the potential for wasteful litigation, and they want to see fixes rather than breakdowns. Like me, they do want Y2K liability reform. That is why I supported the Kerry/Robb substitute. But the Wisconsin businesses who've contacted me don't have very strong feelings about any of the provisions unique to the McCain/Wyden bill. And it is not surprising because, unlike as with product liability reform, here they are more likely to be plaintiffs than defendants, making them weary of measures that discourage remedial action.

I continue to believe that we should generally reform litigation. But if we are going to start doing it piecemeal, the place to start is probably in the

product liability context, where 90-year-old products, still in use, are being judged by today's standards. The place not to start with sweeping reform is here—especially when it would benefit a software manufacturer who produces a product in 1998 that becomes dysfunctional just two years later and did nothing at all to try to prevent the defect from happening.

That said, there are moderate steps we have taken, and can take, to help address the Y2K issue. For example, last year I cosponsored and Congress passed the Year 2000 Information Disclosure Act. This law encourages the disclosure and exchange of information about computer processing problems by raising the standard regarding when companies can be liable for releasing false information. I also cosponsored the Small Business Year 2000 Readiness Act, which was signed into law earlier this year. It expands the Small Business Administration's lending program to provide companies with assistance as they work to become Y2K compliant. The Kerry/Robb substitute is a reasonable measure that can make a difference and, indeed, that the President can sign.

When all is said and done, I suspect we will enact a law this year and before the Year 2000, and that it will look a lot more like the Kerry/Robb substitute than the unbalanced bill before the Senate today. That would be fair to the high tech world and it would be in the best interests of consumers and small businesses in Wisconsin.

Mr. BURNS. Mr. President, today I rise to highlight the hypocrisy that I have heard during this debate on S. 96, the Y2K legislation admirably led by my friend, Senator JOHN MCCAIN. I have heard a number of Senators up here saying they would not do anything to hurt the high-tech industry. Those same Senators then turn around and offer an amendment or voice their support for an amendment that no one in the high-tech industry supports, but there is one group who supports their amendments, the American Trial Lawyers.

As Chairman of the Senate Subcommittee on Communications, I work with leaders from the high-tech industry on a daily basis. I sit back in amazement when I watch the economic success of our nation, which is largely driven by the high-tech industry. In fact, yesterday, June 14, Alan Greenspan testified in front of Chairman MACK's Joint Economic Committee and placed strong emphasis on the fact that the high-tech industry is driving our current economic boom. It is creating an economy like we have never seen before. I am working toward the goal of bringing high-tech jobs to Montana, my home state. I believe in my heart that the day will come when the high-tech economy delivers more good paying jobs to my fellow Montanans. I do not want anything to get in the way of this possibility. Let me give you a few amazing statistics that outline the success and tremendous growth opportunities in this industry. In 1998, there was anywhere from $32 billion to $50 billion in electronic commerce done worldwide depending on which research firm you listen to. The Gartner Group projects that in 2003 there will be $3.2 trillion in electronic commerce done worldwide. Think about that, $32 billion in 1998 and over $3.2 trillion in 2003 or 100 times as much electronic commerce in five years. Friends, we have never seen growth like this in an economic sector in American history. Further, in 2010, 20 percent of worldwide commerce will be done online. I ask myself, ''What can the Government do to make sure these numbers become a reality?''

We need to stay out of the way. What can the Government do that could stop this unprecedented growth? I can tell you what we could do to stop the growth of the industry, we could listen to our colleagues who are up here carrying the water of the trial lawyers.

Let me show you exactly why the American trial lawyers do not want to see this legislation pass. The Gartner Group estimates that the cost of dealing with the Y2K bug worldwide will run in excess of $600 billion. Yet, we continuously hear that class action lawsuits and other suits are being filed or are being written for later filing that may reach past the $1 trillion mark. Do you know any industry in the world that is so resilient that it can easily take a $1 trillion hit without being slowed down in its growth? I don't. As a matter of fact, as big as the Y2K problem is, the biggest problem our high-tech industry faces is from the trial lawyers. We cannot stand by and let this happen.

I want the American people to see why many Senators are carrying Amendments that are supported by the American trial lawyers. In the 1998 election cycle, nearly 90 percent of the roughly $2.4 million given to federal candidates by the American Trial Lawyers Association was given to Democrats. Every single one of the Amendments offered here on the Senate floor that the American Trial Lawyers Association backed has been offered by Democrats. It is not hard to see the correlation and draw conclusions. President Clinton has threatened to veto S. 96 if passed in its current form. Sure enough, if you look back to his election in 1996, you find that over 90 percent of the money given by the American Trial Lawyers Association was given to President Clinton over former Majority Leader Bob Dole.

The Democrats stand on the Senate floor and say that their proposed amendments to S. 96 are proconsumer. I am here to highlight the hypocrisy in that statement. Is it proconsumer to slow the growth of our Nation's economy because of frivolous legislation? What the amendments do and President Clinton's threatened veto stand to do are to slow one of the most outstanding eras of economic growth this country has ever seen. And they say this is proconsumer? As voices for the people, we are elected to do what is best for the citizens of America. The high tech industry, which is carrying us into an unprecedented era of economic strength, wants to see this bill passed so that the $1 trillion plus in threatened lawsuits by the American trial lawyers never become a reality.

The Democrats are again threatening to play politics with a matter of grave danger and utmost importance to the American economy. I want to say to my colleagues, stand firm. Push this bill through unchanged, and send it to President Clinton.

The growth of the high-tech industry is absolutely critical to the continued growth of our Nation's economy. Make President Clinton tell the American people that he would rather see the trial lawyers have their day and pay rather than see one of the most exciting industries in American history continue its rise to the top of our Nation's economy. Do not let the American trial lawyers dictate our economy, stand in support of Senator MCCAIN's bill, S. 96.

Mr. DOMENICI. Mr. President, I rise in support of the compromise Y2K liability bill before the Senate today.

I want to commend my colleagues who have worked hard to put the Senate in position to pass this important legislation.

After working for years to enact securities litigation reform, I know how tough it is to battle the trial lawyers. In fact, many of the same entrepreneurial lawyers who specialize in securities class actions have already begun to file Y2K class actions.

Let there be no doubt that being a trial lawyer is big business. In anticipation of the problems associated with Y2K, lawyers have been putting on seminars on how to plead, try and negotiate Y2K lawsuits. Nearly 80 companies have already been hit by Y2K lawsuits.

Y2K offers these enterprising lawyers a new litigation gold mine. If we do not pass this bill, estimates are that the litigation costs from the Y2K problem will be as much as $1.5 trillion. That exceeds the cost of the asbestos, breast implant, tobacco and Superfund lawsuits combined.

Our economy is the envy of the world. High technology companies have done much to fuel the growth of the stock market in recent years, and they have provided millions of Americans high paying and rewarding jobs. The average high-tech wage is nearly 75% higher than the average private sector wage in the United States. These companies spend nearly $40 billion per year in research and development. I would rather see high-tech firms continue to spend their resources on their employees and on improving their products, rather than spend money on lawyers.

And there is no doubt that deep-pocketed technology companies will be the most attractive potential defendants in abusive Y2K litigation. These companies proved to be the most attractive for entrepreneurial securities

class action lawyers, and I have every reason to believe that they will find themselves in the lawyers' cross hairs once again if we don't enact this bill.

Rather than turn our booming high tech economy over to the trial lawyers, this bill seeks to place some reasonable restraints on Y2K litigation. The focus of this bill is to encourage potential litigants to fix their Y2K problems without having to resort to the courts, and the lawyers.

The bill would require a 90-day cooling off period to allow potential plaintiffs to offer a way to cure any Y2K defects which arise in their products. This is a reasonable alternative to the ''rush to the courthouse'' atmosphere which might prevail without this legislation.

I am also pleased to see that the drafters of this bill have chosen to include the proportionate liability provisions from the Private Securities Litigation Reform Act of 1995 in this bill. These provisions, taken from the bill Senators DODD, D'Amato and I passed into law, are the essence of fairness in tort reform. Who can argue with the concept that defendants should only be responsible for the portion of damages corresponding to their actual fault in any given case? I guess the trial lawyers might argue with that idea, but few others would.

Finally, I want to say a word about punitive damages. I think the drafters of this bill have done all they can, and compromised as much as possible on the issue of punitive damages. At this point, unless you are a small business, there is no limit in this bill on punitive damages, if the plaintiff can prove by clear and convincing evidence that the applicable standard for punitives has been met.

In my view, I would have liked to see this bill further cap punitive damages. Punitive damages are designed to deter future wrongful conduct, but it has been shown that they serve relatively little deterrent purpose. This is particularly true in Y2K cases, where the problem is one that is fixable the first time it is discovered. Since we cannot have another ''millennium problem'' for another thousand years, I fail to see how punitive damages should apply in any Y2K case.

Former Supreme Court Justice Lewis Powell, in describing punitive damages generally many years ago, noted that they invited ''punishment so arbitrary as to be virtually random.'' Justice Powell wisely has commented that because juries can impose virtually limitless punitive damages, they act as ''legislator and judge, without the training, experience, or guidance of either.'' Justice Powell didn't know about the Y2K problem when he wrote these words, but they still ring true in this debate here today.

While many of us would have liked to see this bill go farther in a few areas, I believe that some lawsuit reform is better than no reform at all. Rather than let the trial lawyers run out the clock, the drafters have done a fine job reaching a compromise. This bill is a reasoned approach to the problem- one that emphasizes cooperation, not litigation and puts our economic growth and our high-tech businesses ahead of greedy trial lawyers. I am happy to support it.

I thank my colleagues for yielding me time, I again commend the drafters of this bill, and I yield the floor.

Mr. ROBB. Mr. President, while most people think of divisions in this body as divisions of party, there are other divisions as well. Increasingly, I'm becoming concerned about the division between those who want to create political issues and those who want to solve problems.

From the start of this debate, I realized that the crushing wave of litigation which could accompany the new year threatens to hinder our efforts to achieve Y2K readiness and exacerbate the damage done by the Y2K bug. The prospect of litigation enormously complicates an already complex problem. I have worked with others to try to move all interested parties toward enough of a consensus that we could get a bill that would be signed into law.

This effort to develop a consensus bill led to the development of the alternative offered by Senator KERRY. That substitute had the benefit of both addressing the legitimate needs of the high tech community and satisfying the concerns expressed by the Administration. Instead we have voted out legislation which, if unchanged in conference, is heading toward a veto.

I have said from the outset that I believe we ought to pass a bill to address this real—and unique—problem. So today I voted for S. 96, to move it to the next stage in the legislative process. But I caution my colleagues that if this bill is not modified—if the conferees are not willing to address the remaining concerns in the upcoming conference—then we're still faced with a veto, we'll end up where we began, and we'll have wasted valuable time in reaching our goal.

With regard to the conference, I have heard that the House may simply adopt the Senate language, sending this bill directly to the White House knowing it would be vetoed. That's pure politics and it's counter-productive. From my negotiations with the White House, I know that they too want to find consensus, but at this point, the only way to find this consensus is to sit down with them in a conference setting.

If a conference does not take place, if this bill is sent to the President with the explicit knowledge that it will draw a veto, then the reports on Capitol Hill that some would rather have a Y2K issue than a Y2K solution will be obvious for one and all to see, because there is consensus to be found on this issue, if all parties are willing to negotiate in good faith.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I think we have had a very excellent debate. I yield the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Democratic leader.

Mr. DASCHLE. Mr. President, I appreciate the opportunity to say just a couple of words about the pending bill. I will use my leader time, because I know we are out of time under the unanimous consent agreement.

Let me begin by saying I do not think there is disagreement at all among most of our colleagues about the importance of stopping frivolous Y2K lawsuits. We recognize that high technology is now the driving engine of our economy and will become an even more important part of our economy in the years ahead. We recognize that businesses need to focus on fixing the problem, not defending against lawsuits.

So we want a bill. We hope to have a bill the President will sign. I am disappointed we are not there yet. The White House has made it very clear the pending bill will be vetoed even with the changes that have been made so far. So we have gridlock. We have gridlock in large measure because we have not been able to resolve the remaining differences on this important legislation.

I think it is very important we balance the legitimate needs of industry to be protected from frivolous attacks and the rights of consumers. We differ on very critical legislative details that were the focus of a substitute Senator KERRY offered some time ago. We recognize that consumers and small businesses will face real problems. We need to protect their rights in court. That is one of our fundamental concerns about the passage of the current legislation.

We want a bill. We do not want frivolous lawsuits. But we also want to ensure that people have some protection.

Let me just give one example of what will happen if this bill is passed and signed into law. This is just one example.

The pending bill only allows small businesses to recover economic losses for tangible property damage. That is a phrase we are going to hear a lot more in the future, ''tangible'' property damage. This does not include the loss of business information, such as that contained in computer databases. So such losses, including billing records or customer lists, property that is critical to a business owner but which is not tangible, is not covered under the bill we are passing. Amazingly, the pending bill would even protect defendants from liability for fraud or misrepresentation.

If you are a small businessman watching C-SPAN right now, you are on Main Street and you are wondering what this bill is all about, under this bill, in those cases where you do not have a tangible property matter at stake, you have absolutely no protection. If you lose your database, if you

lose that so-called nontangible property, you have no recourse. That is unacceptable.

I know we are going to get all kinds of debate, and I will probably get calls this afternoon: Yes, we do. The fact is, we have had analysis after analysis. The bottom line is that there is no protection for intangible property. That is not protected.

Defendants are even protected from liability for economic losses if they engaged in fraud or misrepresentation under the current legislation.

Our alternative, by contrast, only protects responsible companies. The biggest difference between our approach and theirs is that we protect only companies that have acted responsibly. We require companies to demonstrate that they have taken steps to clear up the Y2K problems.

For example, the pending bill provides blanket proportional liability. The Kerry amendment merely requires companies to have identified and warned potential victims of problems to get proportional liability.

The pending bill caps punitive damages for small companies. Punitive damages punish egregious conduct. We provide no such protection for irresponsible behavior in the alternative we offer.

The pending bill sets up roadblocks for consumers suffering from real Y2K-related problems. Our amendment lets them in the courthouse door to at least have the opportunity for redress their damages in a court of law.

This area of law traditionally falls under State jurisdiction. But this legislation, the pending bill, preempts State law. We acknowledge the need to do so because of unique circumstances, but we also recognize the need to be careful.

The pending bill virtually shifts all Y2K suits into Federal court. It makes it harder for consumers to bring a suit. It increases the strain on an already backlogged Federal court system. Chief Justice Rehnquist and the Judicial Conference oppose such federalization. Our bill places limits on class actions but does not federalize them.

In some ways our bill is very similar. Our version addresses all the basic concerns raised by the high-tech industry. Our plan is identical to the pending bill in many ways. Both give defendants 60 days to fix a Y2K problem. Both allow either party to request alternative dispute resolution. Both require anyone seeking damages to have the opportunity to offer reasonable proof—including the nature and amount of the damages—before a class action suit could proceed.

But while we recognize the need for a bill, we must carefully write it. Evidence is yet unclear as to the extent of this problem. Evidence is yet unclear about how much frivolous litigation will result from the Y2K bug.

We should not grant sweeping legal immunity to those who have caused but not corrected problems. Those who have not tried to address problems deserve no special protection. Yet, this bill provides them that protection.

Our approaches are identical in every important, necessary way. But they differ in critical ways for consumers and for our court system.

Our approach is the only one the President will sign, so it is the only one that has hope of becoming law.

The year 2000 is fast approaching. We cannot waste time debating a bill we know will be vetoed only to have to start all over again. It is senseless to do that.

If enough of our colleagues vote against this legislation, it sends a message to fix it in conference. If conferees fail to fix it, I will make every effort to pass another bill that addresses the problem, that the President can sign.

In fact, I will present again, as clearly as I can, an articulated, very understandable version of what the President will sign. I want to make it very clear what it is the President will sign and what he will not. We owe it to all of our colleagues to reiterate one more time just what it is that he finds so offensive about this.

Let's go back one more time, because I think it is so incredible an issue. If you are affected tangibly, if your property is somehow tangibly affected, you have redress, you can be compensated for economic losses; but if your database, if your mailing list, or if anything else in the computer is adversely affected, is lost, is destroyed as a result of an advertent or inadvertent error on the part of technology—you lose everything—you have no recourse. You cannot recover economic losses that result.

Is that really what we want to do? Do we want to destroy your opportunity for recourse when you have lost your database? When you have lost your mailing list? Do we really want that to be the law of the land overriding State law? That is exactly what we are voting on.

The answer is, I will bet you this afternoon a majority of our colleagues are going to say: Yes, that is what I am voting on. I will support taking away the right of a small businessman to go to court if he has lost his database. I will support the right of an errant computer salesman or somebody else to take away a small business's opportunity to go to court.

I do not believe we want to do that. That is why the President said he will veto this bill. We can do better than that. Nobody can plead ignorance. I am saying it this afternoon. I want everybody to understand it. Nobody can say, ''I didn't know that's what the bill did,'' because I am telling you right now, that is what it does.

So before you vote, my colleagues, understand, ignorance is not bliss here. Ignorance is no excuse. When they come back and say, ''I didn't know,'' we can say, ''I told you before the vote.''

If you want to take away a small businessman's right to go to court because he has lost everything, you go ahead and vote for this bill. If you want a bill that works, work with us, work with the President; let's get one approved by the Senate he can sign.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 2:15.

Thereupon, the Senate, at 1:16 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

Y2K ACT

The Senate resumed the consideration of the bill.

AMENDMENT NO. 623 TO AMENDMENT NO. 608

Mr. MCCAIN. Mr. President, it is my understanding that there is a Sessions amendment at the desk, No. 623, and I ask for its immediate consideration.

It is also my understanding, with the agreement of the Senator from South Carolina, that the amendment is acceptable to both sides. Therefore, I believe there is no further debate on the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 623) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 624 TO AMENDMENT NO. 608

Mr. MCCAIN. The next item of business is the amendment that was offered by Senator GREGG.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Mr. President, the amendment is very well intentioned. I believe we more appropriately sought to deal with this matter when we adopted the Inhofe amendment. I come to the conclusion that the Gregg amendment could possibly have an adverse affect on the bill and lead to more litigation, when certain individuals use this legislation as an excuse to avoid legitimate regulation.

I also believe that the adoption of this amendment might further increase the risk of veto of the bill. I want to assure the Senator from New Hampshire that we will deal with this matter in a thoughtful manner in conference, but I am very concerned about the impact of this amendment.

I believe that under the previous order, unless the Senator from New Hampshire requests unanimous consent to speak on the amendment, we should move forward.

The PRESIDING OFFICER. There are 2 minutes equally divided.

The Senator from New Hampshire.

AMENDMENT NO. 624 TO AMENDMENT NO. 608, AS MODIFIED

Mr. GREGG. Mr. President, I ask unanimous consent to modify the amendment.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 624), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. SUSPENSION OF PENALTIES FOR CERTAIN YEAR 2000 FAILURES BY SMALL BUSINESS CONCERNS.

(a) DEFINITIONS.—In this section—

(1) the term ''agency'' means any executive agency, as defined in section 105 of title 5, United States Code, that has the authority to impose civil penalties on small business concerns;

(2) the term ''first-time violation'' means a violation by a small business concern of a Federal rule or regulation (other than a Federal rule or regulation that relates to the safety and soundness of the banking or monetary system, including protection of depositors) resulting from a Y2K failure if that Federal rule or regulation had not been violated by that small business concern within the preceding 3 years; and

(3) the term ''small business concern'' has the same meaning as a defendant described in section 5(b)(2)(B).

(b) ESTABLISHMENT OF LIAISONS.—Not later than 30 days after the date of enactment of this section each agency shall—

(1) establish a point of contact within the agency to act as a liaison between the agency and small business concerns with respect to problems arising out of Y2K failures and compliance with Federal rules or regulations; and

(2) publish the name and phone number of the point of contact for the agency in the Federal Register.

(c) GENERAL RULE.—Subject to subsections (d) and (e), no agency shall impose any civil money penalty on a small business concern for a first-time violation.

(d) STANDARDS FOR WAIVER.—In order to receive a waiver of civil money penalties from an agency for a first-time violation, a small business concern shall demonstrate that—

(1) the small business concern previously made a good faith effort to effectively remediate Y2K problems;

(2) a first-time violation occurred as a result of the Y2K system failure of the small business concern or other entity, which affected the small business concern's ability to comply with a federal rule or regulation;

(3) the first-time violation was unavoidable in the face of a Y2K system failure or occurred as a result of efforts to prevent the disruption of critical functions or services that could result in harm to life or property;

(4) upon identification of a first-time violation, the small business concern initiated reasonable and timely measures to remediate the violation; and

(5) the small business concern submitted notice to the appropriate agency of the first-time violation within a reasonable time not to exceed 7 business days from the time that the small business concern became aware that a first-time violation had occurred.

(e) EXCEPTIONS.—An agency may impose civil money penalties authorized under Federal law on a small business concern for a first-time violation if—

(1) the small business concern's failure to comply with Federal rules or regulations constitutes or creates an imminent threat to public health, safety, or the environment; or

(2) the small business concern fails to correct the violation not later than 1 month after initial notification to the agency.

Mr. GREGG. Mr. President, is the precedent that the presenter of the amendment has the last minute?

The PRESIDING OFFICER. The time is equally divided.

The Senator from New Hampshire.

Mr. GREGG. This amendment is really fairly simple. Essentially, it is an attempt to give the middle person, the small businessperson in this country who may, through no fault of their own, be subject to a Federal fine because they didn't comply with some Federal law as a result of the failure of their computer system, some protection from that fine. It says that this can only occur in instances where it is the first time it has happened. In other words, you can't have a bad actor trying to use this to try and get out from underneath the fines.

It says that the small business may have a legitimate, provable effort that they tried to protect the computer problem and that they notified the Federal agency they had the computer problem. So there is ample protection to be sure that the system can't be gamed. The purpose of this amendment is simply to protect the small businessperson. This will be rated by the NFIB, I understand.

Mr. LOTT. Mr. President, I would like to express my strong support for the Gregg-Bond amendment that was adopted as part of this Y2K bill. I know that the small business community in Mississippi and nationwide must appreciate our removing the potential for yet another millennium headache.

Almost every federal agency requires small businesses to comply with a number of paperwork requirements. That is a fact that is unlikely to change with the new century. It is likely, however, that an unanticipated Y2K failure could prevent a small business from meeting these federal paperwork deadlines on time.

The Gregg-Bond amendment will provide relief to small businesses by waiving civil penalties in this type of case. Let me remind my colleagues that this is not an amendment that will reward those who misbehave or who fail to prepare themselves for Y2K. As the Senator from New Hampshire stated earlier, in order to take advantage of this one-time penalty waiver, a small business owner must first prove that he or she took prudent steps to prevent the Y2K failure in the first place. Let me give you an example of how the amendment will work.

Let's say a shoe repair shop owner in Inverness, Mississippi, does her best to make her computer system Y2K compliant, only to find that the New Year brings total system failure. Because of this computer crash, the store owner is unable to access her payroll records and cannot submit her payroll taxes on time. The Gregg-Bond amendment gives the business owner a reasonable amount of time to get her system running and pay her taxes—without the IRS slapping huge fines on her.

Mr. President, this amendment does not say that small businesses do not have to comply with the law. It does not say that small businesses do not have to meet their paperwork requirements. It simply says that if a small business has a legitimate Y2K failure that causes a hiccup in its paperwork flow, its federal fines can be waived.

As we enter the new century, I ask my colleagues: Do we want to start the millennium by fining small businesses for unpredictable and unintentional first-time paperwork violations?

Fortunately, the answer is no.

I would like to thank Senator GREGG and Senator BOND for offering this amendment, and my colleagues for adopting it. I would also like to thank the National Federation of Independent Business for its hard work on this amendment and this bill. The ''Voice of Small Business'' was heard loud and clear in this Chamber today. Thank you.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 624, as modified. The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—71

Abraham	Frist	McCain
Allard	Gorton	McConnell
Ashcroft	Graham	Moynihan
Baucus	Gramm	Murkowski
Bayh	Grams	Nickles
Bennett	Grassley	Robb
Bingaman	Gregg	Roberts
Bond	Hagel	Rockefeller
Brownback	Harkin	Roth
Bunning	Hatch	Santorum
Burns	Helms	Schumer
Campbell	Hutchinson	Sessions
Cochran	Hutchison	Shelby
Collins	Inhofe	Smith (NH)
Conrad	Jeffords	Smith (OR)
Coverdell	Kerrey	Snowe
Craig	Kerry	Specter
Crapo	Kohl	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Domenici	Leahy	Thurmond
Dorgan	Lott	Voinovich
Enzi	Lugar	Warner
Fitzgerald	Mack	

NAYS—28

Akaka	Cleland	Hollings
Biden	Daschle	Inouye
Boxer	Durbin	Johnson
Breaux	Edwards	Kennedy
Bryan	Feingold	Lautenberg
Byrd	Feinstein	Levin

Lieberman	Reed	Wellstone
Lincoln	Reid	Wyden
Mikulski	Sarbanes	
Murray	Torricelli	

NOT VOTING—1

Chafee

The amendment (No. 624), as modified, was agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. HOLLINGS. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the remaining votes in this series be limited to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I will take 2 of my minutes, and the Senator from Oregon will take the remaining 2 minutes.

The PRESIDING OFFICER. It is 2 minutes equally divided.

Mr. MCCAIN. Under a previous unanimous consent agreement, I requested 4 minutes on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, let's be clear about the importance of the bill and what is at stake. The bill is supported by virtually every segment of our economy. It is important not only to the high-tech industry or big business but carries strong support from small business, retailers and wholesalers, and the insurance industry.

On one side of the issue we have the American economy, arguably the strongest our Nation has ever enjoyed. It is driven in large measure by the technological leadership our companies have and are providing to the rest of the world, the resulting revolution in productivity for other industries. On the other side, we have those who, for whatever reason, desire encouraging disputes rather than solving problems.

The Y2K situation presents an unparalleled opportunity to tie up the country's judicial system and the economy's resources in litigation, which only profits the legal profession. Opportunistic litigation costs the Nation's economy time and resources which then cannot be spent on value-added productivity.

This is a very important piece of legislation. It is important to the future of the economy. It is important to the future development of this technology, and it is of great importance to the future of average American citizens.

I yield back the balance of my time.

Mr. WYDEN. Mr. President, Senator DODD is the Democratic technology leader. I join him now in saying that a vote against this bill is a vote against the entrepreneurs and risk-takers of this Nation who are working their heads off to make their systems Y2K compliant but are legitimately fearful of frivolous lawsuits.

Some have said that small businesses cannot recover their economic losses under this bill. If that were the case, why would the Nation's small businesses overwhelmingly support the legislation?

The fact is, small businesses can recover economic losses just as they do under the status quo. Specifically, a small business plaintiff can recover whatever economic losses are allowed under State contract law. Many of these State laws say that if profits are lost as a consequence of a Y2K failure, the small business plaintiff can recover their economic losses.

Failure to pass this bill would be similar to lobbing a monkey wrench into the high-tech engine that is driving the Nation's economic prosperity. I join with Senator DODD, our technology leader, in urging Democrats to support the legislation.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this is a very serious moment for the Senate in that we now are going to legalize negligence and legalize fraud. How does this come about? It is very interesting that the industry itself says 90 percent have no Y2K problems at all. Only 6 percent here, in this month's Investors Business Daily, said that 5½ months ahead of that they could possibly have any problem. Straussman of Xerox said it is managerial incompetence not to have it fixed by now. We still have 5½ months.

We are acting in spite of the fact that the States have been not only doing an outstanding job with respect to product liability but also with respect to Y2K, and in spite of the Conference of Chief Justices' resolve against this measure.

I ask unanimous consent to have printed in the RECORD a letter from the Conference of Chief Justices of the State Supreme Courts.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONFERENCE OF CHIEF JUSTICES, OFFICE OF GOVERNMENT RELATIONS, NATIONAL CENTER FOR STATE COURTS,

Arlington, VA, May 25, 1999.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: I am writing on behalf of the Conference of Chief Justices (CCJ), to express our concern with S. 96 and H.R. 775 in their present form. We understand that S. 96 and H.R. 775 are attempts to address the serious problem of potential litigation surrounding the Y2K issue. However, in part, the bills pose a direct challenge to the principles of federalism underlying our system of government. We are particularly concerned that each bill would in effect replace established state class action procedures in favor of removal to the Federal courts in most cases. The members of CCJ seriously question the wisdom of such an action.

In this regard, CCJ agrees with the position of the U.S. Judicial Conference as submitted by Judge Walter Stapleton to the House Judiciary Committee on April 13, 1999. His testimony points out that:

''State legislatures and other rule-making bodies provide rules for aggregation of state-law claims into class-wide litigation in order to achieve certain litigation economies of scale. By providing for class treatment, state policymakers express the view that the state's own resources can be best deployed not through repetitive and potentially duplicative individual litigation, but through some form of class treatment. H.R. 775 could deprive the state courts of the power to hear much of this class litigation and might well create incentives for plaintiffs who prefer a state forum to bring a series of individual claims. Such individual litigation might place a greater burden on the state courts and thwart the states' policies of more efficient disposition.

Federal jurisdiction over class litigation is an area where change should be approached with caution and careful consideration of the underlying relationship between state and federal courts.''

We would emphasize that State courts presently handle 95 percent of the nation's judicial business. State and Federal courts have developed a complementary role in regard to our jurisprudence and these bills would radically alter this relationship. It is not enough to argue these bills affect only a segment of commerce, or that resolution of the problem on a state by state basis is inconvenient. It is a bad precedent that could have future ramifications. The founding fathers created our federal system for a reason that Congress should be extremely reticent to overturn.

If you have any questions, please feel free to contact me directly, or contact Tom Henderson or Ed O'Connell who staff our Government Relations Office. They can be reached at (703) 841–0200.

Respectfully,

DAVID A. BROCK,
Chief Justice, President,
Conference of Chief Justices.

Mr. HOLLINGS. We are acting in spite of the fact that no attorney general, no Governor, or any other entity has come up and asked for it. Then the question is, Why do we, at the Federal level, rush to suspend 200 years of State law?

Right to the headline here in the Washington Post, ''GOP Voice For Backing Of High Tech Leaders. Party Aims To Exploit Y2K Vote, CEO Summit.'' And yesterday morning's New York Times, the headline, ''Congress Chasing Campaign Donors Early And Often.''

If you look on the Republican screen, it says there:

Senate again attempts to end minority stranglehold—the great Y2K money chase.

There it is. This crowd, they want to do away with estate taxes, capital gains taxes, immigration laws, now the State liability laws. If this thing works, I am going to put in an exemption for the corporate tax.

You know, they rebuilt America—not us, who back in 1993 even taxed Social Security, cut 300,000 employees, raised taxes some $250 billion and cut spending $250 billion so the economy could recover.

In spite of all that—so the economy could recover, so you could buy these computers and everything else of that kind—what is happening here is they do not even want a fix. The Senator from California just says, ''Let's just get a fix. Get rid of the lawyers.'' They

voted it down. ''Let's just help the consumers,'' said Senator LEAHY. They voted that down.

What they are trying to do is not get a fix but, rather, fix the system. They know how to do it. They suspend economic losses. I practiced law, and I can tell you here and now what will happen if all you can get is, say, two-thirds of the cost of your computer because—after I bring the investigation, the pleadings, discovery, interrogatories, trial, appeal, and convince 12 jurors—after I have done all of that, I am deserving of at least 20 or 30 percent. So I have to tell the client that is the best you can do after a year in court and everything else of that kind. I have never seen such a thing in my life.

This is a bad bill. We could have passed a good one. We could have gotten alternative dispute resolution. We could have done this in a bipartisan fashion, as we did last year. We could have done this as I did with the aircraft bill, which I voted for, or the securities bill, which I voted for. But they would not let us. They wanted that computer money.

The PRESIDING OFFICER. The time of the Senator has expired.

Without objection, the substitute amendment is agreed to.

The substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. The Senate bill will be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The clerk will report H.R. 775.

The assistant legislative clerk read as follows:

A bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

The PRESIDING OFFICER. Under the previous order, H.R. 775 is amended by striking all after the enacting clause and inserting in lieu thereof the text of S. 96, as amended.

The bill will be read for the third time.

The bill was read the third time.

Mrs. HUTCHISON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—62

Abraham	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Moynihan
Baucus	Gorton	Murkowski
Bennett	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Robb
Brownback	Gregg	Roberts
Bryan	Hagel	Roth
Bunning	Hatch	Santorum
Burns	Helms	Sessions
Byrd	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lieberman	Thurmond
DeWine	Lincoln	Voinovich
Dodd	Lott	Warner
Domenici	Lugar	Wyden
Enzi	Mack	

NAYS—37

Akaka	Graham	Mikulski
Bayh	Harkin	Reed
Biden	Hollings	Reid
Boxer	Inouye	Rockefeller
Breaux	Johnson	Sarbanes
Cleland	Kennedy	Schumer
Cochran	Kerrey	Shelby
Conrad	Kerry	Specter
Daschle	Kohl	Thompson
Dorgan	Landrieu	Torricelli
Durbin	Lautenberg	Wellstone
Edwards	Leahy	
Feingold	Levin	

NOT VOTING—1

Chafee

The bill (H.R. 775), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I want to thank a number of Senators and members of their staffs for the hard work and diligence that has resulted in the passage of the Y2K Liability Limitation legislation. This bill was crafted through the determination of Senator MCCAIN and Senator WYDEN of the Commerce Committee, Senator BENNETT and Senator DODD of the Special Committee on the Year 2000 Technology Problem, and Senator HATCH and Senator FEINSTEIN of the Judiciary Committee. Additional help from Senator GORTON, Senator LIEBERMAN, and Senator BROWNBACK also helped to secure passage of this important legislation.

Mr. President, it is also important to recognize the work of a number of the staff members for the Senators who were instrumental in the successful efforts on this bill. We are very fortunate to have such intelligent, dedicated individuals working in the United States Senate, and the passage of meaningful legislation would not be possible without the hard work of these people. Specifically, I would like to thank Marti Allbright, Mark Buse, Carole Grunberg, Shawn Maher, Wilke Green, Larry Block, Manus Cooney, David Hantman, Tania Calhoun, Laurie Rubenstein, Karen Knutson, Brian Henneberry, and Steven Wall . The professional skills and abilities of these staff members were important in achieving this legislative success. These staff members and their colleagues ensure that the United States Senate is a responsive, effective body for the American people. On behalf of myself and my colleagues in the Senate, I again say ''thank you.''

Mr. President, the passage of Y2K liability relief provides a reasonable public policy for America as our nation enters the next millennium. It ensures that America's technology sector focuses on solutions to the Y2K problem, rather than spending limited time and resources on defending lawsuits. American ingenuity will make certain that the Year 2000 problem is solved. Great strides have already been made toward this goal, and this bill is an additional critical step in the process for America.

Mrs. MURRAY. Mr. President, just three weeks ago I joined with 12 of my Democratic colleagues to urge the leadership in both parties of the Senate to take up Y2K reform legislation as soon as possible. We got what we wanted and just completed debate. Many amendments were offered but several that would have improved the bill were defeated. Certainly the bill we passed today is much better than the proposal that passed out of the Senate Commerce Committee months ago.

Despite some reservations I voted for this bill, because potential problems associated with Y2K failures and subsequent litigation could be very harmful. Widespread litigation could harm businesses and hurt consumers through increased costs in the essential products and services we use in our information technology dependant lives. Moving the process forward is necessary if we are to adequately protect consumers and the businesses who have done all they can to ensure their products work at the turn of the century.

It is important we have mechanisms that will allow for quick remediation of Y2K problems, will encourage companies to correct their mistakes, and will fairly adjudicate cases when mediation fails. We all recognize that computer problems associated with the new millennium could be large. These problems need to be addressed.

Washington is one of the most high-tech-dependant States in the Nation. Technology companies make up the most energetic and fastest growing segment of the Washington State economy. Information technology has also become a major factor in the economic engine of the Nation. Many employees and consumers in my State depend on these companies' success. The people I represent could be negatively impacted if we fail to take action on this issue.

What we passed today could do much to encourage remediation of the problems we face in addressing the Y2K problem. The bill protects businesses that have acted responsibly and allows for consumers and businesses to punish those who have acted in bad faith. The bill is also limited in scope and time with a sunset date just three years after enactment, which focuses this bill

on the unique, one time event which we are seeking to address. What we have done today is an important step toward protecting consumers and businesses from Y2K problems.

That said, I have some concerns about the bill. Individual consumers were not as well protected as they should have been. While we've been able to retain for small businesses as large as 50 employees the ability to get a broad array of damages, we were unable to get a complete exception for consumers. Individuals have less bargaining power and generally don't possess the expertise or money required to protect themselves as well as businesses. Therefore, I am hopeful in conference we will get measures that exempt consumers from certain sections of the bill and allow them greater access and bargaining power when Y2K failures harm them.

I also have concerns about the bill's preemption of State contract and tort law. The class action provisions of this bill would allow for either party to remove an action from a State proceeding to Federal court at virtually any time. This impedes State's rights and could harm individual plaintiffs by forcing them to incur more litigation costs by having to start anew in federal court. Unlike large companies, individuals often have difficulty traveling to new venues and paying additional attorney's fees. The court system should encourage individuals who are harmed to seek redress, not discourage them as this bill does. I also hope we can work on this in conference.

It is important to note that the version that passed the House of Representatives is an even worse bill for consumers. It does not seek the balance between plaintiffs and defendants, but resembles the pro-defendant bill that originally passed from the Senate Commerce Committee. The House bill is a step backward from what was achieved in the Senate. If we move at all toward the House bill in conference, I would hope and I'm confident that many of my colleagues will join me in opposing the conference report.

Overall, passing this bill helps get the process going. It certainly is not perfect and I am hopeful the problems I have outlined can be dealt with in conference. It is also my desire to see the administration get involved in the negotiations at conference.

My constituents, high-tech companies, and consumers deserve a bill that is fair and just, allows for remediation before filing suit, and protects people and companies who have acted in good faith.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each, to extend for 40 minutes equally divided between the two leaders.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

GUIDANCE FOR THE DESIGNATION OF EMERGENCIES AS A PART OF THE BUDGET PROCESS

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 297 to Calendar No. 89, S. 557, a bill to provide guidance for the designation of emergencies as a part of the budget process:

Trent Lott, Pete Domenici, Rod Grams, Mike Crapo, Bill Frist, Michael B. Enzi, Ben Nighthorse Campbell, Judd Gregg, Strom Thurmond, Chuck Hagel, Thad Cochran, Rick Santorum, Paul Coverdell, Jim Inhofe, Bob Smith of New Hampshire and Wayne Allard.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on amendment No. 297 to S. 557, a bill to provide guidance for the designation of emergencies as a part of the budget process, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—53

Abraham	Enzi	Lott
Allard	Fitzgerald	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McCain
Bond	Gramm	McConnell
Brownback	Grams	Murkowski
Bunning	Grassley	Nickles
Burns	Gregg	Roberts
Campbell	Hagel	Santorum
Cochran	Hatch	Sessions
Collins	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Smith (OR)
Crapo	Inhofe	Snowe
DeWine	Jeffords	Specter
Domenici	Kyl	Stevens
		Thomas
		Thompson
		Thurmond
		Voinovich
		Warner

NAYS—46

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Boxer	Inouye	Reid
Breaux	Johnson	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Roth
Cleland	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

NOT VOTING—1

Chafee

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

KOSOVO AND SOUTHWEST ASIA EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999—MOTION TO PROCEED

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, it is my understanding now we are going to have a debate on the cloture motion related to the steel loan guarantee program. It is my further understanding that there are two people in favor of it who wish to speak for it. Senator NICKLES was going to speak against it.

I ask unanimous consent I might have 5 minutes with Senator NICKLES, so we would have 10 minutes in favor of it and 10 minutes opposed to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senate is not in order. The Chair will recognize the Senator from West Virginia, but his time will not start until the Senate is in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair for his insistence upon order.

I urge my colleagues to vote for cloture on this bill and to vote for the bill. I am going to direct my remarks to that portion of the bill, insofar as I can in this brief period, that deals with the steel loan guarantee. Mr. DOMENICI and others will speak about the similar oil and gas loan guarantee.

There is a real need for this legislation, for this assistance to American firms and to American workers, and that need is now. A crisis does exist in our own steel industry. The illegal dumping of below-cost steel into our country is real.

Our domestic steel industry has been seeking remedy through antidumping and countervailing trade cases. The Commerce Department tells us these cases are being considered, but it takes

time. Opponents of this loan guarantee program would have us believe this is an excessively costly solution to a nonexistent problem. It is neither. The loan guarantee program outlined in this bill would provide qualified steel producers access to loans through the private market that are guaranteed by the Federal Government in the same way the Federal Government now guarantees loans made to homebuilders, farmers, even foreign nations such as Mexico, Israel, and Russia. It sets no precedent. Similar programs have been successfully implemented for New York City, Lockheed, and Chrysler.

Both the Congressional Budget Office and the Office of Management and Budget have calculated the budget authority estimates of this program at $140 million, reflective of the fairly low risk of default and the value of the potential collateral to be offered. This cost is fully offset. I want to stress that. This cost is fully offset. The total amount of all guarantees will not exceed $1 billion. All loans must be repaid within 6 years with interest. The program also contains a funding mechanism for the borrowers to pay for the cost of administering the program. Importantly, this loan guarantee program is GATT legal. We are still playing fair. We are not subsidizing our steel industry.

I respect those who will oppose this measure. But let me ask this question: Are we going to ship another U.S. industry overseas? We have already shipped the shoe industry, the leather industry, the pottery industry, the textile industry and other industries. Are we going to ship another U.S. industry overseas, the steel industry this time? Are we going to allow foreign entities to make ghost towns of our steel-dependent communities?

These are loan guarantees, similar to the guarantees we have provided for all manner of national endeavors in the past whenever it was in our national interests to do so. We have provided such guarantees to foreign nations as well whenever we deemed it to be necessary and beneficial to our international interests. I am not against doing that, if it is in our national interests. This bill is a short-term helping hand to a vital American industry which is being severely damaged by illegal—illegal—foreign dumping. Can we not act here to stand up for American businesses and for American workers? This is a pro-American-business vote as well as a pro-American-jobs vote.

We have already lost 10,000 jobs in the U.S. steel industry since last November. How many more must we lose before we act? When we continue to lose these industries and these jobs, are you going to explain it on the basis that you voted against cloture? Good luck!

Mr. SPECTER. Mr. President, I have sought recognition to speak briefly on the emergency steel and emergency oil and gasoline guarantee program.

Before discussing the merits of the pending issue—which I believe is a very meritorious bill—I think it appropriate to comment on the very unique procedural status of this measure, and it is this:

This provision was in the emergency appropriations bill passed by the Senate, which went to conference with the House last month, on the so-called ''Kosovo emergency'' where we provided funding for the military action in Kosovo. The House of Representatives during the conference receded to the Senate position, so this bill was accepted by both the Senate—where it passed—and by the House on the rescission.

On the next day, since the conference did not end that day, where the House receded, the House of Representatives changed its position, because the Speaker of the House took up the matter where two of the three key voters in the House changed their vote. The House then changed its position to be opposed to this guarantee loan program.

Then we had the controversy continuing, with the Senate including the program in its bill. The House, having first receded and adopting the program, then said it would oppose the program.

There was very considerable debate. One of our sessions lasted past midnight. The conferees, of which I was one on the Appropriations Committee, were trying to get this bill concluded so we could fund the Kosovo military operations.

There were very considerable discussions. Finally, a small group went to Senate Room 128, the appropriations room. Senator BYRD was present, Senator STEVENS was present, and I was present, all representing the Senate. There were just a few of the House Members present at that time.

We finally agreed upon an approach where the sponsors of this measure—the principal sponsors being Senator BYRD and Senator DOMENICI, and I was a sponsor as well—agreed to have it removed from the emergency supplemental to be attached to another supplemental, which was available.

The understanding was reached that the provision would be on the Senate bill going back to the House in an identical position, that the provision was on the Senate bill, the emergency supplemental passed by the Senate, and then up for consideration by the House. Senator STEVENS, as the chairman of the committee, made a commitment on behalf of the Senate that that would happen.

In order to comply with that arrangement, it would be necessary for this bill to pass the Senate and then to go back to conference with the House—where, candidly, its fate is uncertain—because the House Members, after the position taken by the Speaker of the House, appeared during our conference as being unlikely to accept the bill. Presumptively, that position would continue. That, of course, would await the events of the conference. But, that arrangement was made.

I think that is a strong point that ought to be considered by the Senate to put this provision in the same position it was in when approved by the Senate, with disagreement by the House after they had earlier agreed, so there would not be a procedural loss.

That was the essence that finally persuaded Senator BYRD to agree to take it off of the earlier bill. So much for the procedure, which I think speaks very strongly for having this measure enacted by the Senate.

On the merits, I submit there are very sound reasons for this loan guarantee program. We have seen the steel industry really decimate in the recent past by dumped steel imports from many countries including Japan, Brazil, Korea, and Russia. In Russia there is a very great demand for the dollar so the Russians are selling steel for any price they can get for it.

The International Trade Commission, backed by the Commerce Department, recently confirmed the very high level of dumping.

We have had a very serious problem with thousands of layoffs in an industry which had slipped down from some 500,000 steelworkers to about 150,000 even while some $50 billion in capital had been put into the steel industry. There is no way to compete with dumping. Dumping is when foreign exporters bring imports into the United States below the cost of production—below the cost they are selling it in other places. Dumping is in violation of U.S. trade laws and is in violation of GATT.

Over the years, I have urged the adoption of legislation which would provide for a private right of action. That was introduced early in the 1980s to have injunctive relief granted to stop dumped and subsidized steel coming into the country in violation of U.S. trade laws.

I introduced legislation, which is pending at the present time, which would modify the injunctive relief but would provide for equitable relief with duties imposed. This would be GATT consistent. Anybody who dumped steel in the United States would have a duty imposed equal to the legitimate price minus the dumped price. With this legislation, there would be no advantage to dumping steel in the United States.

The House of Representatives passed a very strong bill on quotas, by 289 to about 141. It is veto proof, at least on that state of the record. That matter may be headed for debate on the Senate floor—but in the interim—I think this program for emergency steel and loan guarantees is very appropriate. It provides for a $1 billion revolving fund for steel companies, and a two-year, $500 million revolving fund for oil and gas companies.

The bill would require commitment of collateral, which would be a guarantee that the loan would be repaid

and have a fee to be paid by the borrower to cover the cost of administering the program with all loans to be paid in full within 6 years.

The package has been estimated to cost $270 million which is offset by the executive travel budget. On the merits, it is a solid program and it does have an appropriate offset.

I speak with grave concern about the issue of steel—from the point of view of our Nation—because steel is essential for national security purposes. If an emergency were to arise, we would not be able to buy steel presumptively from the Russians or probably from the Japanese, or who knows, from the Brazilians. We ought to be independent and have a strong steel industry.

In my capacity as chairman of the Senate Steel Caucus, I have grave concern about the loss of jobs, which have been very heavy in my State, Pennsylvania, but very heavy in other States as well. Three medium-sized companies have recently gone into bankruptcy: Acme Steel, Laclede Steel, and Geneva Steel. Others may be in the offing with the tremendous impact of the dumping of steel.

With respect to the problems in the so-called ''oil patch,'' Senator DOMENICI has spoken at some length. We are not talking about the big oil companies. From my background years ago when my family owned a used oil field equipment company—really, a junkyard in Russell, KS—I became familiar with the problems of the small oil dealers in the so-called ''oil patch.'' Senator DOMENICI will address that issue in somewhat greater detail.

My familiarity at the moment is more intensive and extensive on steel, but I do believe that the problems which have been faced by the small oil producers are extensive and warrant this kind of a loan guarantee program. With the provisions of collateral security, safeguards, fees to be paid and with the offset present, this program is one which is structurally sound to have the loans repaid.

Accordingly, I urge my colleagues to vote for cloture so we can consider this matter on the merits, both because of the understanding—really, commitment—reached as I earlier described and the merits of the substantive program.

Mr. DEWINE. Mr. President, I rise today to express my strong support for the bill before us today, and specifically the ''Emergency Steel Loan Guarantee Program'' provision authored by our distinguished colleague Senator ROBERT BYRD. I would like to take this opportunity to express my gratitude to Senator BYRD for his hard work, determination, and persistence in bringing this important measure to the floor.

Our steel industry is in trouble. Since last year, U.S. steel producers have had to withstand an onslaught of illegally imported steel. In 1998, 41 million tons were dumped—an 83 percent increase over the amounts imported for the previous eight years. Many steel companies are reporting financial losses, most attributed to the high levels of illegal steel imports. It is estimated that approximately 10,000 steelworkers have lost their jobs. The Independent Steel Workers predict job losses of as many as 165,000 if steel dumping is not stopped. I, along with many of my Senate colleagues like Senators BYRD, ROCKEFELLER, and SPECTER, have introduced legislation to help our steel industry. It is time for action. All eyes are on the U.S. Senate to respond to the crisis.

A good first step would be the adoption of Senator BYRD's Steel Emergency Loan Guarantee Program. This loan program is designed to help troubled steel producers who have been hurt by the record levels of illegally imported steel. For many companies, this program is the only hope they have to keep their mills alive. Specifically, the program would provide qualified U.S. producers with access to a two-year, $1 billion revolving guaranteed loan fund. In order to qualify, steel producers would be required to give substantive assurances that they will repay the loans. A board chaired by the Secretary of Commerce would oversee the program. The program will cost $140 million, all of which has been fully offset with other reductions in spending.

A strong and healthy domestic steel industry is vital to our nation. Fortunately, our steel industry is a highly efficient and globally competitive industry. Yet, despite this modernization, our steel producers face a number of unfair trade practices and market distortions that are having a devastating impact in Ohio and other steel-producing states. I have heard firsthand from industry and labor leaders about the crisis. Many steel companies are in serious trouble and are in desperate need of immediate assistance. The short term loans that would be provided under Senator BYRD's program will provide that assistance without burdening taxpayers. If steel plants close, taxpayers will be forced to pay for unemployment compensation, food stamps, Medicaid, housing assistance, child care, community adjustment assistance, and worker retraining—all of which will exceed the total cost of this program. Again, the steel companies are required to repay the loan within six years, provide collateral, and pay a fee to cover the costs of administering the program. The Commerce Department has identified 10 companies that may qualify for the program.

I am a free trader. And I believe free trade does not exist without fair trade. Free trade does not mean free to subsidize, free to dump, free to distort the market. Our trade laws are designed to enforce those principles. However, the current steel crisis underscores flaws and weaknesses in those laws. I am pleased that the Majority Leader has scheduled time next week to deal with the issue of steel dumping. The House has already acted. It is time for us to act.

Today, we have an opportunity to help an industry that throughout its long and illustrious history has been there for our country. Let us pass this bill and commit to adopting meaningful legislation to deal with the steel import crisis.

I thank Senator BYRD for his tireless efforts in standing up for Steel. I cannot think of a more dedicated champion on this issue. I know my colleagues in the Steel Caucus as well as the hard-working steel producers and steel workers across America are very proud of his efforts.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend from West Virginia, because he is tenacious. He is a very good legislator. I am afraid he is going to win on this vote on the motion to proceed. I hope he does not, because I think we are making a serious mistake if we vote for this, but I compliment him for his persistence in pushing this proposal. I am opposed to it. This proposal is a $1.5 billion loan guarantee, $1 billion for steel, $500 million for oil and gas. Senator DOMENICI added the oil and gas provision, because the oil and gas industry is probably going through a greater economic crisis than even the steel industry.

The Senator from West Virginia said steel has lost 10,000 jobs. The oil and gas industry probably lost 40,000 jobs, and I will tell you, a good percentage of those are in my State. So I am sympathetic with the objectives they are trying to accomplish. I just disagree with the idea of having the Federal Government come in and make Federal loan guarantees.

We tried it before. The Carter administration did this in 1978. In 1978, they came up with a loan guarantee proposal for steel. They ended up making 290 million dollars' worth of loans, net contingent liability. The steel industry defaulted on $222 million. That is a 77-percent default rate. I will read a couple of comments that were made in the CRS report, dated March 17, 1994.

> Although only five loan guarantees were obligated to steel companies. . .77 percent of the dollar value of these guarantees were defaulted. Although the sample size is very small, hindsight suggests that as a group, steel loans represented a very high level of risk, which may account for the lack of interest in the private markets to take these debt obligations without a guarantee.

I also will read for the RECORD from a Washington Post article dated February 28, 1988, just a couple of comments talking about the loan guarantees.

> Less than a decade later, all five loans are in default, and the Commerce Department's Economic Development Administration, in an internal memorandum, notes that ''by any measurement, EDA's steel loan program would have to be considered a failure. The program is an excellent example of the folly

inherent in industrial policy programs,'' the memo added. The companies that received the guaranteed loans are either in bankruptcy, out of business or no longer own the facility in which the money was invested.

This is a news report that analyzed the loan guarantee program that was initiated in the Carter administration back in 1978–1979.

I ask unanimous consent to have printed in the RECORD the article from which I just quoted.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 28, 1988]

STEEL LOAN DEFAULTS PROVIDE HARD LESSON IN GOVERNMENT POLICY

(By Cindy Skrzycki)

For sale by government, the most modern steel rail mill in the country. Like new. Capable of turning out 360,000 tons of rail. Not far from Pittsburgh.

With a slick marketing campaign, the U.S. government is attempting to recover a portion of the $100 million it lent Wheeling-Pittsburgh Corp. in 1979 to build a steel rail mill in Monessen, Pa. But it appears that its investment may be as shabby as many of the abandoned mills that litter America's industrial landscape.

The Monessen mill is an example of ill-fated government intervention in an industry that is but a shadow of its old self. Under a special loan-guarantee program put in place by the Carter administration to help the ailing steel industry, a total of five loans worth $365 million were approved, backed by a 90 percent government guarantee.

Less than a decade later, all five loans are in default, and the Commerce Department's Economic Development Administration, in an internal memorandum, notes that ''by any measurement, EDA's steel loan program would have to be considered a failure.''

''The program is an excellent example of the folly inherent in industrial policy programs,'' the memo added.

The companies that received the guaranteed loans are either in bankruptcy, out of business or no longer own the facility in which the money was invested.

Carried on the ledgers of the EDA, which administered the program in the late 1970s, the steel loan-guarantee program is evidence that politically influenced government investment decisions can result in unprofitable, if not disastrous, results, many analysts say.

''It says that in cases like these there is no reason for the government to get involved and second-guess the private capital markets,'' said Robert Crandall, an economist with the Brookings Institution. ''The argument for government intervention may be to develop seed technology with other applications. . . . But these were investments in rather rudimentary technology in a declining industry.''

Walter Adams, a steel expert at Michigan State University, called the loan program ''another goodie, a lollipop thrown to the industry to assuage complaints about unfair competition and satisfy their demands for government assistance.''

At the time the loans were approved, some of them whipped up a storm of controversy in Congress.

At the time, the steel industry was being increasingly pinched by imports and a dramatic falloff in demand for steel. In an effort to save jobs and encourage investment, the industry pressured the Carter administration to provide some relief. Carter's response was to form a special steel task force under the guidance of Anthony Solomon, the Treasury's undersecretary for monetary affairs. One recommendation was to provide industrial loan guarantees for the industry.

Some of the loans, and the criteria under which they were made, proved to be troublesome. For example, a $42 million loan—which was never closed—was to go to a French-controlled company called Phoenix Steel. Critics pointed out that the loan not only encouraged overcapacity, but was a subsidy to a foreign producer.

The government has written off the $19.6 million it paid on a $21 million loan to Korf Industries, but hopes to recover the $94.2 million it already has paid bond holders on a $111 million loan to LTV Corp., which has filed for bankruptcy reorganization. It has recovered about $16 million of a total of $63 million it lent to the defunct Wisconsin Steel Co.

But the real eye of the storm has centered on the ill-fated Wheeling-Pittsburgh deal—a facility that was up and running barely six years.

''Once you're in bankruptcy, you're just looking for ways to eliminate unprofitable operations,'' said Raymond A. Johnson, spokesman for Wheeling-Pittsburgh, which filed for bankruptcy in 1985.

Though Wheeling-Pittsburgh's competitors in the rail business—Bethlehem Steel Corp. and CF&I Steel Corp—insisted in the late 1970s that there was not enough demand to support another mill, officials at EDA and the company dismissed the objections not only of the companies but of several members of Congress, such as Sen. Lowell P. Weicker (R–Conn.)

Robert Hall, who was then assistant secretary for economic development, called criticism of the new facility ''misplaced.'' Dennis Carney, former chairman of Wheeling-Pittsburgh, said at the groundbreaking of the Monessen mill that ''a new rail mill was vitally needed.'' He also said he felt sure that the company could repay the loan, which was supplemented by yet another $50 million guaranteed loan from the Farmers Home Administration for pollution control equipment.

But demand has fallen far below the levels foreseen in 1979, when Bethlehem projected that the railroads would need about 1.2 million tons per year of rail. Since the mid-1980s, demand declined as the railroad industry shrank and turned to recycling rail.

''It's not a booming market,'' said Bob Matthews, president of the Railway Progress Institute, an association of railroad equipment manufacturers. He predicted that demand will be only 500,000 tons, on average, over the next decade while capacity—if Monessen is factored in—is at least double that. Also, imports account for some 30 percent of the market.

Last year, according to Bethlehem, industry shipments—counting imports—were only 540,000 tons. The industry is down to two producers: Bethlehem's unprofitable plant at Steelton, Pa., and CF&I in Pueblo, Colo.

Left to mop up the loan mess is the current crop of EDA officials, some appointed by the Reagan administration, which itself has come under pressure to provide special help for the steel industry such as import quotas.

''We have vivid proof that federal government intervention in the markets has disastrous results,'' said Orson Swindle, assistant secretary for economic development at Commerce. ''The taxpyer will take a bath.''

Just how big will the bath be?

In the case of the Monessen mill, the EDA, as instructed by the bankruptcy court, is taking bids and hopes to cover its share of the $63.5 million loan that financed the mill. The chances of recovering the rest of the $100 million loan, which went to finance pollution controls, are not good, said Michael Oberlitner, director of EDA's liquidation division.

The government made good on its part of the deal after Wheeling-Pittsburgh filed for bankruptcy in April 1985, paying bond holders some $90 million.

To try to recoup its investment, the government has undertaken a $110,000 marketing and advertising campaign that includes having a public relations firm churn out press releases and field inquiries. A brochure touts the Monessen property as ''the most advanced rail rolling and finishing facility in America.''

Most of the budget, said Oberlitner, has gone to placing promotional ads in newspapers such as the Wall Street Journal and the Financial Times of London.

''We've had tremendous response to the advertising,'' said Oberlitner, adding that some 130 inquiries have come from domestic and foreign companies and investors.

But the most interesting—if not ironic—bid for the Monessen mill has come from Wheeling-Pittsburgh's old nemesis, Bethlehem Steel, which has offered $60 million for the facility.

Although Bethlehem's own rail mill at Steelton is not profitable and faces a soft market, the company thinks it can combine the mills, rolling steel at Monessen that has been shipped from Steelton's underutilized facilities.

''We believe the acquisition of Monessen is vital,'' said Tim Lewis, Steelton's plant manager.

In the end, which comes on April 7 when a buyer will be chosen, the modern Monessen rail mill may run again. But as it stands now, Monessen is an example of a failure of industrial policy.

''In cases like this, there is no penalty for failure,'' Michigan State's Adams said, commenting on the lack of corporate accountability for bad decisions. ''This was largely a political phenomenon.''

Mr. NICKLES. We have tried it. It didn't work before. I am afraid it won't work again, because it is basically saying we don't believe the marketplace can make loans; we want the Federal Government to do it. We want to set up a board of politicians that will make loan guarantees, and not only guarantee 70 or 80 percent of the loan but the bill that is before us says they can guarantee 100 percent of the loan.

I find that to be very irresponsible. We are saying the Secretaries of Labor and Commerce and Treasury have better wisdom on whether or not to be making loans than bankers throughout the country. I think that is a serious mistake.

I also have objections because of the way this bill is drafted. It says this is an emergency. We just voted on lockbox. We are going to vote on lockbox again later this week. We do not want to spend any of the surplus of Social Security money on anything but Social Security.

This bill takes a bunch of that money, up to $270 million estimated by CBO, and says: Let's spend that on loan guarantees. Let's spend Social Security money. Let's move the caps. Let's adjust the caps.

We are violating the so-called lockbox which we say we do not want to spend. As a matter of fact, President

Clinton said it in the State of the Union Address 2 years ago: We won't spend one dime of this Social Security money on anything else. This bill would say, let's spend $270 million of it. I think that is a mistake.

I urge my colleagues, we shouldn't be declaring an emergency this week. We just did it 2 weeks ago. We did it 2 weeks ago as Kosovo money, $13 billion net for Kosovo. We declared that an emergency. We are declaring this an emergency; that is a $270 million cost. That shouldn't be counted. Even though it may have offsets on budget authority, it is not offset in outlays. It does move the caps up. It does violate the budget. I think it would be a serious mistake.

What about dumping? The Commerce Department has already taken action against Japan and against Brazil to stop illegal dumping. That is the proper avenue to be moving if there is illegal dumping. It is not to have the Federal Government come in and say: Let's make loan guarantees. Let's have the Federal Government underwrite it. Politicians know best. We don't think the marketplace can work. We think bureaucrats in three Departments should be making these loans.

I urge my colleagues to vote no on the cloture vote.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The time of the Senator from Oklahoma has expired. Who yields time?

Mr. DOMENICI. Mr. President, I will reserve the remainder of my time for closing. Since we are trying to defend against an assault here, we want to speak last.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, out of courtesy for our colleague from New Mexico, I will go ahead and speak now.

First of all, let me make a couple of things clear. No. 1, this bill contains an emergency designation so that not one penny of the funds expended under these loan guarantees will count toward the spending caps.

What that means is that in the next 2 years alone, in the years 2000 and 2001, that is $270 million, over a quarter of a billion dollars, if optimistic assumptions about defaults contained in this bill hold up, $270 million, over a quarter of a billion dollars will come directly out of the Social Security surplus.

Supposedly, there are offsets for cutting travel and furniture, but the spending caps are not reduced by that amount. So that money, if in fact those cuts were ever made, would end up being spent on something else. The spending in this bill is designated as an emergency, which means every penny of it will come out of the Social Security surplus.

We just had a vote about an hour ago where we said we want to stop the plundering of the Social Security trust fund. We do not think Congress ought to be taking Social Security money and spending it on other things. In fact, Republicans have been pretty self-righteous about it. We have held up our little lockboxes, and we have had press conferences. The problem is we hold these lockboxes up, but we keep supporting measures that knock the doors off, springs go flying, the combination thing goes rolling across the room. You cannot have it both ways. You either want to spend money or you don't want to spend money.

Nobody should be confused about the fact that this is paid for. The cuts don't lower the spending caps. There is an emergency designation; $270 million minimum in 2 years will come right out of Social Security.

We are turning the clock back. The last time we had the Government making loans to business, engaging in industrial policy, was when Jimmy Carter was President. Someone earlier today tried to make an argument that we were doing all of these things because the inflation rate was double digit at the time. Did anybody ever think the inflation rate got to be double digit because we did all of these things?

In a period of record prosperity, what are we doing having the Government override the decisions of the marketplace?

We do have laws against dumping, and those laws are being vigorously enforced by this administration. Some would say overly enforced. But there are avenues to deal with dumping, and those avenues are being addressed.

The last time we guaranteed loans to American industry and to the steel industry in particular, 77 percent of those loans were defaulted. If that happens here, every penny of that is coming right out of the Social Security surplus.

This is popular. I am from an oil State. There are going to be people who say $500 million of loans could just do wonders for us. But we are not paying for this. You take out the emergency designation, you change this bill, because then you get cuts in other spending to pay for it.

I think we have to make a decision. We have to decide which side we are on. You cannot be for not plundering the Social Security trust fund and be for this bill. So while obviously my State, and the State of the Senator from Oklahoma, would be beneficiaries from some of these loans, we can't have it both ways. We can't stand up an hour ago and say: Don't plunder Social Security, and then an hour later say: Well, if it is for a good reason such as providing loan guarantees for steel and oil, it is OK to plunder Social Security, but it is not OK in the abstract.

I can't turn corners that quickly. I can't change sides on an issue in an hour.

I do not want people to be confused. This bill has an emergency designation. It will waive the cap for the spending. There are offsets in budget authority, but they do not match up with the spending. There is no lowering of the spending cap to enforce the savings. The truth is, every penny spent from the year 2000 when this program starts until it ends will come directly out of the surplus and, for the next few years, every penny of it will come directly out of the Social Security surplus.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. GRAMM. If you are going to lock it up, you cannot spend it.

Mr. DOMENICI. Mr. President, parliamentary inquiry. All the time has expired except for 5 minutes for the Senator from New Mexico; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Then we will vote?

The PRESIDING OFFICER. The cloture vote, yes.

Mr. DOMENICI. Mr. President, let me remind everyone that this would have been a great argument 3 weeks ago when the Senate passed, with an overwhelming vote, a supplemental appropriations bill that had this precise bill in it. A vast majority of Senators voted in favor of the Emergency Supplemental bill. So we already passed it.

All of a sudden, steel and oil and gas become a very bad thing. But we already passed it overwhelmingly. We sent it over to the House to go to conference. The Senate Conferees wanted their loan programs. The House was dead set against it. Because of these loan programs the Emergency Supplemental for Kosovo and Hurricane Mitch was deadlocked. The Senate conferees said, all right, let's pass the Emergency bill without the loan provisions but let's take it back to the Senate, and when it gets back to the Senate, let's vote it out and take it to conference with the House so we can finally resolve the debate that started weeks ago in conference.

Frankly, the air tight lockbox that everybody thinks will really tie up Social Security forever—I want to confess, I invented it, I dreamt it up. But, you know, every time we turn around now for the next 6 or 8 months, as we work our way through, where is the lockbox? Do we really have one, or don't we?

We will hear this ''plundering'' heard—led by the Senator from Texas—that we are plundering. If you divide $270 million by 10 years, we are plundering it to the extent of $27 million a year.

If you want to look at the reality of things, in order to say to the oil patch in the United States, which already has lost over 56,400 jobs out of an estimated 340,700 jobs just since October 1997. With oil patch in crisis our rural communities are dying on the vine. Those who service the oil industry in the field—not the Exxons and the Texacos—going broke or belly up because they can't get loans, we are not going to fix that.

But I submit that if you are worried about making loans, we make hundreds of millions in loans for agriculture. We voted $6 billion or $8 billion in supplemental emergency funds for agriculture. If you don't think the U.S. Government lends money to business, just go look at the Small Business Administration, where hundreds of thousands of dollars are loaned to small business on 90 percent guarantees. Guess what. They are making it. There is no gigantic default rate. They are being helped to get into business and succeed.

Frankly, from my standpoint, it just appeared to me, as a Senator from oil patch, that essentially if we are going to help other people, then I just want to try to see in the Senate if you would like to help the industry that is a core fundamental of any industrialized economy—the production of oil and gas in the United States, which is withering on the vine, and dependence is going through the roof. Our foreign oil dependence is now 57 percent.

Senator NICKLES mentioned the steel program of the late 1970's. It was a small, unstructured, ad hoc program. I believe there were a grand total of five loans made. We sit here tonight and equate this to an era in American corporate history when inflation was 18 percent, interest rates were 20 percent, and my friend from Texas says because that program didn't work very well we shouldn't try again.

That experience is a lesson, but frankly, it is irrelevant. The steel industry of today bears no resemblance to the steel industry of the 1970s. Our economy today, bears no resemblance to the economy then. Interest rates and default rates by American companies are nowhere near what they were then. The failure of business to default is all over the guarantee program in America. The failure is very small, because the economy is strong and they are able to pay their loans back.

So Senators on my side of the aisle can feel free to vote against this measure as a matter of substance. But I believe in fairness to having passed these bills already—we committed to go to conference with the House to see what they would do—we ought to invoke cloture so as to delay this bill for the shortest period of time possible. It could be amended post cloture, but at least we won't be here killing the bill that is exactly what I have outlined—a revote on something we already voted for.

I am not going to argue the economic condition of oil patch, because some of the Senators on my side of the aisle, and a few on that side of the aisle, already know that the United States, in terms of oil patch, those people who service oil wells, they are experiencing a total economic collapse. If we can't see fit to put $500 million on the books that can be loaned to them, and have to argue about the philosophy of loans by the Federal Government and the default rate of 25 year ago, then, frankly, I believe oil patch has the right to conclude that we just don't care.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative assistant read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 121, H.R. 1664, the steel, oil and gas loan guarantee program legislation:

Trent Lott, Pete Domenici, Rick Santorum, Mike DeWine, Ted Stevens, Kent Conrad, Joe Lieberman, Robert C. Byrd, Byron L. Dorgan, Jay Rockefeller, Tom Daschle, Harry Reid, Paul Wellstone, Tom Harkin, Fritz Hollings, Robert J. Kerrey, and Tim Johnson.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 1664, an act making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rules.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE) is necessarily absent.

The yeas and nays resulted—yeas 71, nays 28, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—71

Abraham	Edwards	Lugar
Akaka	Feingold	McConnell
Baucus	Feinstein	Mikulski
Bayh	Gorton	Moynihan
Bennett	Graham	Murkowski
Biden	Harkin	Murray
Bingaman	Hatch	Reed
Bond	Helms	Reid
Boxer	Hollings	Robb
Breaux	Hutchison	Roberts
Bryan	Inhofe	Rockefeller
Burns	Inouye	Santorum
Byrd	Jeffords	Sarbanes
Campbell	Johnson	Schumer
Cleland	Kennedy	Sessions
Cochran	Kerrey	Shelby
Conrad	Kerry	Specter
Craig	Kohl	Stevens
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Wellstone
Dorgan	Lieberman	Wyden
Durbin	Lincoln	

NAYS—28

Allard	Fitzgerald	Kyl
Ashcroft	Frist	Lott
Brownback	Gramm	Mack
Bunning	Grams	McCain
Collins	Grassley	Nickles
Coverdell	Gregg	Roth
Crapo	Hagel	
Enzi	Hutchinson	
Smith (NH)	Snowe	Voinovich
Smith (OR)	Thomas	Warner

NOT VOTING—1

Chafee

The PRESIDING OFFICER. On this vote the yeas are 70, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed. Without objection, the motion is agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion to proceed was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A bill (H.R. 1664) making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1999, and for other purposes, namely:

CHAPTER 1

[DEPARTMENT OF STATE

[ADMINISTRATION OF FOREIGN AFFAIRS

[DIPLOMATIC AND CONSULAR PROGRAMS

[Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for ''Diplomatic and Consular Programs'', $17,071,000, to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

[Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for ''Security and Maintenance of United States Missions'', $50,500,000, to remain available until expended, of which $45,500,000 shall be available only to the extent that an official budget request for a specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

[Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, an additional amount for ''Emergencies in the Diplomatic and Consular Service'', $2,929,000, to remain available until expended, of which $500,000 shall be transferred to the Peace Corps and $450,000 shall be transferred to the United States Information Agency, for evacuation and related costs: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.]

SEC. 101. EMERGENCY STEEL LOAN GUARANTEE PROGRAM.

(a) SHORT TITLE.—This chapter may be cited as the ''Emergency Steel Loan Guarantee Act of 1999''.

(b) CONGRESSIONAL FINDINGS.—Congress finds that—

(1) the United States steel industry has been severely harmed by a record surge of more than 40,000,000 tons of steel imports into the United States in 1998, caused by the world financial crisis;

(2) this surge in imports resulted in the loss of more than 10,000 steel worker jobs in 1998, and was the imminent cause of 3 bankruptcies by medium-sized steel companies, Acme Steel, Laclede Steel, and Geneva Steel;

(3) the crisis also forced almost all United States steel companies into—

(A) reduced volume, lower prices, and financial losses; and

(B) an inability to obtain credit for continued operations and reinvestment in facilities;

(4) the crisis also has affected the willingness of private banks and investment institutions to make loans to the United States steel industry for continued operation and reinvestment in facilities;

(5) these steel bankruptcies, job losses, and financial losses are also having serious negative effects on the tax base of cities, counties, and States, and on the essential health, education, and municipal services that these government entities provide to their citizens; and

(6) a strong steel industry is necessary to the adequate defense preparedness of the United States in order to have sufficient steel available to build the ships, tanks, planes, and armaments necessary for the national defense.

(c) DEFINITIONS.—For purposes of this section:

(1) BOARD.—The term ''Board'' means the Loan Guarantee Board established under subsection (e).

(2) PROGRAM.—The term ''Program'' means the Emergency Steel Guarantee Loan Program established under subsection (d).

(3) QUALIFIED STEEL COMPANY.—The term ''qualified steel company'' means any company that—

(A) is incorporated under the laws of any State;

(B) is engaged in the production and manufacture of a product defined by the American Iron and Steel Institute as a basic steel mill product, including ingots, slab and billets, plates, flat-rolled steel, sections and structural products, bars, rail type products, pipe and tube, and wire rod; and

(C) has experienced layoffs, production losses, or financial losses since the beginning of the steel import crisis, in January 1998 or that operates substantial assets of a company that meets these qualifications.

(d) ESTABLISHMENT OF EMERGENCY STEEL GUARANTEE LOAN PROGRAM.—There is established the Emergency Steel Guarantee Loan Program, to be administered by the Board, the purpose of which is to provide loan guarantees to qualified steel companies in accordance with this section.

(e) LOAN GUARANTEE BOARD MEMBERSHIP.—There is established a Loan Guarantee Board, which shall be composed of—

(1) the Secretary of Commerce, who shall serve as Chairman of the Board;

(2) the Secretary of Labor; and

(3) the Secretary of the Treasury.

(f) LOAN GUARANTEE PROGRAM.—

(1) AUTHORITY.—The Program may guarantee loans provided to qualified steel companies by private banking and investment institutions in accordance with the procedures, rules, and regulations established by the Board.

(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any one time under this section may not exceed $1,000,000,000.

(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified steel company may not exceed $250,000,000.

(4) MINIMUM GUARANTEE AMOUNT.—No single loan in an amount that is less than $25,000,000 may be guaranteed under this section, except that the Board may in exceptional circumstances guarantee smaller loans.

(5) TIMELINES.—The Board shall approve or deny each application for a guarantee under this section as soon as possible after receipt of such application.

(6) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated $140,000,000 to remain available until expended.

(g) REQUIREMENTS FOR LOAN GUARANTEES.—A loan guarantee may be issued under this section upon application to the Board by a qualified steel company pursuant to an agreement to provide a loan to that qualified steel company by a private bank or investment company, if the Board determines that—

(1) credit is not otherwise available to that company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of that company;

(2) the prospective earning power of that company, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of such loan;

(4) the company has agreed to an audit by the General Accounting Office prior to the issuance of the loan guarantee and annually thereafter while any such guaranteed loan is outstanding; and

(5) In the case of a purchaser of substantial assets of a qualified steel company, the qualified steel company establishes that it is unable to reorganize itself.

(h) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

(1) LOAN DURATION.—All loans guaranteed under this section shall be payable in full not later than December 31, 2005, and the terms and conditions of each such loan shall provide that the loan may not be amended, or any provision thereof waived, without the consent of the Board.

(2) LOAN SECURITY.—Any commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions that the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

(3) FEES.—A qualified steel company receiving a guarantee under this section shall pay a fee to the Department of the Treasury to cover costs of the program, but in no event shall such fee exceed an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan.

(i) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to Congress a full report of the activities of the Board under this section during each of fiscal years 1999 and 2000, and annually thereafter, during such period as any loan guaranteed under this section is outstanding.

(j) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, $5,000,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

(k) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

(l) REGULATORY ACTION.—The Board shall issue such final procedures, rules, and regulations as may be necessary to carry out this section not later than 60 days after the date of enactment of this Act.

(m) IRON ORE COMPANIES.—

(1) IN GENERAL.—Subject to the requirements of this subsection, an iron ore company incorporated under the laws of any State shall be treated as a qualified steel company for purposes of the Program.

(2) TOTAL GUARANTEE LIMIT FOR IRON ORE COMPANY.—Of the aggregate amount of loans authorized to be guaranteed and outstanding at any one time under subsection (f)(2), an amount not to exceed $30,000,000 shall be loans with respect to iron ore companies.

(3) MINIMUM IRON ORE COMPANY GUARANTEE AMOUNT.—Notwithstanding subsection (f)(4), a single loan to an iron ore company in an amount of not less than $6,000,000 may be guaranteed under this section.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES (RESCISSIONS)

SEC. 102. (a) Of the funds available in the nondefense category to the agencies of the Federal Government, $145,000,000 are hereby rescinded: Provided, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: Provided further, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the Executive Branch, including the Office of the President.

(b) Within 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section.

CHAPTER 2

[DEPARTMENT OF DEFENSE—MILITARY

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For an additional amount for ''Military Personnel, Army'', $2,920,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[MILITARY PERSONNEL, NAVY

[For an additional amount for ''Military Personnel, Navy'', $7,660,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[MILITARY PERSONNEL, MARINE CORPS

[For an additional amount for ''Military Personnel, Marine Corps'', $1,586,000: *Provided*, That such amount is designated by the

Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[MILITARY PERSONNEL, AIR FORCE

[For an additional amount for ''Military Personnel, Air Force'', $4,303,000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[OPERATION AND MAINTENANCE

[OVERSEAS CONTINGENCY OPERATIONS TRANSFER FUND

[(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for ''Overseas Contingency Operations Transfer Fund'', $5,219,100,000, to remain available until expended: *Provided*, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, $1,311,800,000 shall be available only to the extent that the President transmits to the Congress an official budget request for a specific dollar amount that: (1) specifies items which meet a critical readiness or sustainability need, to include replacement of expended munitions to maintain adequate inventories for future operations; and (2) includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts, including Overseas Humanitarian, Disaster, and Civic Aid; procurement accounts; research, development, test and evaluation accounts; military construction; the Defense Health Program appropriation; the National Defense Sealift Fund; and working capital fund accounts: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That such funds may be used to execute projects or programs that were deferred in order to carry out military operations in and around Kosovo and in Southwest Asia, including efforts associated with the displaced Kosovar population: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

[PROCUREMENT

[WEAPONS POCUREMENT, NAVY

[For an additional amount for ''Weapons Procurement, Navy'', $431,100,000, to remain available for obligation until September 30, 2000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[AIRCRAFT PROCUREMENT, AIR FORCE

[For an additional amount for ''Aircraft Procurement, Air Force'', $40,000,000, to remain available for obligation until September 30, 2000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[MISSILE PROCUREMENT, AIR FORCE

[For an additional amount for ''Missile Procurement, Air Force'', $178,200,000, to remain available for obligation until September 30, 2000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[PROCUREMENT OF AMMUNITION, AIR FORCE

[For an additional amount for ''Procurement of Ammunition, Air Force'', $35,000,000, to remain available for obligation until September 30, 2000: *Provided*, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[OPERATIONAL RAPID RESPONSE TRANSFER FUND

[(INCLUDING TRANSFER OF FUNDS)

[In addition to the amounts appropriated or otherwise made available in this Act and the Department of Defense Appropriations Act, 1999 (Public Law 105–262), $400,000,000, to remain available for obligation until September 30, 2000, is hereby made available only for the accelerated acquisition and deployment of military technologies and systems needed for the conduct of Operation Allied Force, or to provide accelerated acquisition and deployment of military technologies and systems as substitute or replacement systems for other U.S. regional commands which have had assets diverted as a result of Operation Allied Force: *Provided*, That funds under this heading may only be obligated in response to a specific request from a U.S. regional command and upon approval of the Secretary of Defense, or his designate: *Provided further*, That the Secretary of Defense shall provide written notification to the congressional defense committees prior to the transfer of any amount in excess of $10,000,000 to a specific program or project: *Provided further*, That the Secretary of Defense may transfer funds made available under this heading only to operation and maintenance accounts, procurement accounts, and research, development, test and evaluation accounts: *Provided further*, That the transfer authority provided under this section shall be in addition to the transfer authority provided to the Department of Defense in this Act or any other Act: *Provided further*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $400,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[GENERAL PROVISIONS—THIS CHAPTER

[(TRANSFER OF FUNDS)

[SEC. 201. Section 8005 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262), is amended by striking out ''$1,650,000,000'' and inserting in lieu thereof ''$2,450,000,000''.

[SEC. 202. Notwithstanding the limitations set forth in section 1006 of Public Law 105–261, not to exceed $10,000,000 of funds appropriated by this Act may be available for contributions to the common funded budgets of NATO (as defined in section 1006(c)(1) of Public Law 105–261) for costs related to NATO operations in and around Kosovo.

[SEC. 203. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

[SEC. 204. Notwithstanding section 5064(d) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355), the special authorities provided under section 5064(c) of such Act shall continue to apply with respect to contracts awarded or modified for the Joint Direct Attack Munition (JDAM) program until June 30, 2000: *Provided*, That a contract or modification to a contract for the JDAM program may be awarded or executed notwithstanding any advance notification requirements that would otherwise apply.

[SEC. 205. (a) EFFORTS TO INCREASE BURDENSHARING.—The President shall seek equitable reimbursement from the North Atlantic Treaty Organization (NATO), member nations of NATO, and other appropriate organizations and nations for the costs incurred by the United States government in connection with Operation Allied Force.

[(b) REPORT.—Not later than September 30, 1999, the President shall prepare and submit to the Congress a report on—

[(1) All measures taken by the President pursuant to subsection (a);

[(2) The amount of reimbursement received to date from each organization and nation pursuant to subsection (a), including a description of any commitments made by such organization or nation to provide reimbursement; and

[(3) In the case of an organization or nation that has refused to provide, or to commit to provide, reimbursement pursuant to subsection (a), an explanation of the reasons therefor.

[(c) OPERATION ALLIED FORCE.—In this section, the term ''Operation Allied Force'' means operations of the North Atlantic Treaty Organization (NATO) conducted against the Federal Republic of Yugoslavia (Serbia and Montenegro) during the period beginning on March 24, 1999, and ending on such date as NATO may designate, to resolve the conflict with respect to Kosovo.

[SEC. 206. (a) Not more than thirty days after the enactment of this Act, the President shall transmit to Congress a report, in both classified and unclassified form, on current United States participation in Operation Allied Force. The report should include information on the following matters:

[(1) A statement of the national security objectives involved in U.S. participation in Operation Allied Force;

[(2) An accounting of all current active duty personnel assigned to support Operation Allied Force and related humanitarian operations around Kosovo to include total number, service component and area of deployment (such accounting should also include total number of personnel from other NATO countries participating in the action);

[(3) Additional planned deployment of active duty units in the European Command area of operations to support Operation Allied Force, between the date of enactment of this Act and the end of fiscal year 1999;

[(4) Additional planned Reserve component mobilization, including specific units to be called up between the date of enactment of this Act and the end of fiscal year 1999, to support Operation Allied Force;

[(5) An accounting by the Joint Chiefs of Staff on the transfer of personnel and materiel from other regional commands to the United States European Command to support Operation Allied Force and related humanitarian operations around Kosovo, and

an assessment by the Joint Chiefs of Staff of the impact any such loss of assets has had on the war-fighting capabilities and deterrence value of these other commands;

[(6) Levels of humanitarian aid provided to the displaced Kosovar community from the United States, NATO member nations, and other nations (figures should be provided by country and type of assistance provided whether financial or in-kind); and

[(7) Any significant revisions to the total cost estimate for the deployment of United States forces involved in Operation Allied Force through the end of fiscal year 1999.

[(b) OPERATION ALLIED FORCE.—In this section, the term ''Operation Allied Force'' means operations of the North Atlantic Treaty Organization (NATO) conducted against the Federal Republic of Yugoslavia (Serbia and Montenegro) during the period beginning on March 24, 1999, and ending on such date as NATO may designate, to resolve the conflict with respect to Kosovo.

[SEC. 207. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense Appropriations Act, 1999, $1,339,200,000, to remain available for obligation until September 30, 2000, is hereby appropriated to the Department of Defense only for spare and repair parts and associated logistical support necessary for the maintenance of weapons systems and equipment, as follows:

[''Operation and Maintenance, Navy'', $457,000,000;

[''Operation and Maintenance, Air Force'', $676,800,000;

[''Operation and Maintenance, Air Force Reserve'', $24,000,000;

[''Operation and Maintenance, Air National Guard'', $26,000,000;

[''Aircraft Procurement, Navy'', $118,000,000;

[''Aircraft Procurement, Air Force'', $31,300,000; and

[''Missile Procurement, Air Force'', $6,100,000:

[*Provided*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $1,339,200,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[SEC. 208. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense Appropriations Act, 1999, $927,300,000, to remain available for obligation until September 30, 2000, is hereby appropriated to the Department of Defense only for depot level maintenance and repair, as follows:

[''Operation and Maintenance, Army'', $87,000,000;

[''Operation and Maintenance, Navy'', $428,700,000;

[''Operation and Maintenance, Marine Corps'', $58,000,000;

[''Operation and Maintenance, Air Force'', $314,300,000;

[''Operation and Maintenance, Marine Corps Reserve'', $3,000,000;

[''Operation and Maintenance, Air Force Reserve'', $6,800,000; and

[''Operation and Maintenance, Air National Guard'', $29,500,000:

[*Provided*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $927,300,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[SEC. 209. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense Appropriations Act, 1999, $156,400,000, to remain available for obligation until September 30, 2000, is hereby appropriated to the Department of Defense only for military recruiting and advertising initiatives, as follows:

[''Operation and Maintenance, Army'', $48,600,000;

[''Operation and Maintenance, Navy'', $20,000,000;

[''Operation and Maintenance, Air Force'', $37,000,000;

[''Operation and Maintenance, Army Reserve'', $29,800,000;

[''Operation and Maintenance, Navy Reserve'', $1,000,000; and

[''Operation and Maintenance, Army National Guard'', $20,000,000:

[*Provided*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $156,400,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[SEC. 210. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense Appropriations Act, 1999, $307,300,000, to remain available for obligation until September 30, 2000, is hereby appropriated to the Department of Defense only for military training, equipment maintenance and associated support costs required to meet assigned readiness levels of United States military forces, as follows:

[''Operation and Maintenance, Army'', $113,200,000;

[''Operation and Maintenance, Marine Corps'', $15,200,000;

[''Operation and Maintenance, Air Force'', $28,000,000;

[''Operation and Maintenance, Army Reserve'', $88,400,000;

[''Operation and Maintenance, Navy Reserve'', $600,000;

[''Operation and Maintenance, Air Force Reserve'', $11,900,000;

[''Operation and Maintenance, Army National Guard'', $23,000,000; and

[''Operation and Maintenance, Air National Guard'', $27,000,000:

[*Provided*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $307,300,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[SEC. 211. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense Appropriations Act, 1999, $351,500,000, to remain available for obligation until September 30, 2000, is hereby appropriated to the Department of Defense only for base operations support costs at Department of Defense facilities, as follows:

[''Operation and Maintenance, Army'', $116,200,000;

[''Operation and Maintenance, Navy'', $45,900,000;

[''Operation and Maintenance, Marine Corps'', $53,000,000;

[''Operation and Maintenance, Air Force'', $91,900,000;

[''Operation and Maintenance, Army Reserve'', $18,700,000;

[''Operation and Maintenance, Navy Reserve'', $13,800,000;

[''Operation and Maintenance, Marine Corps Reserve'', $300,000; and

[''Operation and Maintenance, Army National Guard'', $11,700,000:

[*Provided*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $351,500,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[SEC. 212. (a) In addition to amounts appropriated or otherwise made available to the Department of Defense in other provisions of this Act, there is appropriated to the Department of Defense, to remain available for obligation until September 30, 2000, and to be used only for increases during fiscal year 2000 in rates of military basic pay and for increased payments during fiscal year 2000 to the Department of Defense Military Retirement Fund, $1,838,426,000, to be available as follows:

[''Military Personnel, Army'', $559,533,000;

[''Military Personnel, Navy'', $436,773,000;

[''Military Personnel, Marine Corps'', $177,980,000;

[''Military Personnel, Air Force'', $471,892,000;

[''Reserve Personnel, Army'', $40,574,000;

[''Reserve Personnel, Navy'', $29,833,000;

[''Reserve Personnel, Marine Corps'', $7,820,000;

[''Reserve Personnel, Air Force'', $13,143,000;

[''National Guard Personnel, Army'', $70,416,000; and

[''National Guard Personnel, Air Force'', $30,462,000.

[(b) The entire amount made available in this section—

[(1) is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 901(b)(2)(A)); and

[(2) shall be available only if the President transmits to the Congress an official budget request for $1,838,426,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[(c) The amounts provided in this section may be obligated only to the extent required for increases in rates of military basic pay,

and for increased payments to the Department of Defense Military Retirement Fund, that become effective during fiscal year 2000 pursuant to provisions of law subsequently enacted in authorizing legislation.]

SEC. 201. PETROLEUM DEVELOPMENT MANAGEMENT.

(a) SHORT TITLE.—This chapter may be cited as the ''Emergency Oil and Gas Guaranteed Loan Program Act''.

(b) FINDINGS.—Congress finds that—

(1) consumption of foreign oil in the United States is estimated to equal 56 percent of all oil consumed, and that percentage could reach 68 percent by 2010 if current prices prevail;

(2) the number of oil and gas rigs operating in the United States is at its lowest since 1944, when records of this tally began;

(3) if prices do not increase soon, the United States could lose at least half its marginal wells, which in aggregate produce as much oil as the United States imports from Saudi Arabia;

(4) oil and gas prices are unlikely to increase for at least several years;

(5) declining production, well abandonment, and greatly reduced exploration and development are shrinking the domestic oil and gas industry;

(6) the world's richest oil producing regions in the Middle East are experiencing increasingly greater political instability;

(7) United Nations policy may make Iraq the swing oil producing nation, thereby granting Saddam Hussein tremendous power;

(8) reliance on foreign oil for more than 60 percent of our daily oil and gas consumption is a national security threat;

(9) the level of United States oil security is directly related to the level of domestic production of oil, natural gas liquids, and natural gas; and

(10) a national security policy should be developed that ensures that adequate supplies of oil are available at all times free of the threat of embargo or other foreign hostile acts.

(c) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the Loan Guarantee Board established by subsection (e).

(2) PROGRAM.—The term ''Program'' means the Emergency Oil and Gas Guaranteed Loan Program established by subsection (d).

(3) QUALIFIED OIL AND GAS COMPANY.—The term ''qualified oil and gas company'' means a company that—

(A) is incorporated under the laws of any State;

(B) is—

(i) an independent oil and gas company (within the meaning of section 57(a)(2)(B)(i) of the Internal Revenue Code of 1986); or

(ii) a small business concern under section 3 of the Small Business Act (15 U.S.C. 632) (or a company based in Alaska, including an Alaska Native Corporation created pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is an oil field service company whose main business is providing tools, products, personnel, and technical solutions on a contractual basis to exploration and production operators that drill, complete wells, and produce, transport, refine, and sell hydrocarbons and their byproducts as the main commercial business of the concern or company; and

(C) has experienced layoffs, production losses, or financial losses since the beginning of the oil import crisis, after January 1, 1997.

(d) EMERGENCY OIL AND GAS GUARANTEED LOAN PROGRAM.—

(1) IN GENERAL.—There is established the Emergency Oil and Gas Guaranteed Loan Program, the purpose of which shall be to provide loan guarantees to qualified oil and gas companies in accordance with this section.

(2) LOAN GUARANTEE BOARD.—There is established to administer the Program a Loan Guarantee Board, to be composed of—

(A) the Secretary of Commerce, who shall serve as Chairperson of the Board;

(B) the Secretary of Labor; and

(C) the Secretary of the Treasury.

(e) AUTHORITY.—

(1) IN GENERAL.—The Program may guarantee loans provided to qualified oil and gas companies by private banking and investment institutions in accordance with procedures, rules, and regulations established by the Board.

(2) TOTAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed and outstanding at any 1 time under this section shall not exceed $500,000,000.

(3) INDIVIDUAL GUARANTEE LIMIT.—The aggregate amount of loans guaranteed under this section with respect to a single qualified oil and gas company shall not exceed $10,000,000.

(4) MINIMUM GUARANTEE AMOUNT.—No single loan in an amount that is less than $250,000 may be guaranteed under this section.

(5) EXPEDITIOUS ACTION ON APPLICATIONS.—The Board shall approve or deny an application for a guarantee under this section as soon as practicable after receipt of an application.

(6) ADDITIONAL COSTS.—For the additional cost of the loans guaranteed under this subsection, including the costs of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a), there is appropriated $122,500,000 to remain available until expended.

(f) REQUIREMENTS FOR LOAN GUARANTEES.—The Board may issue a loan guarantee on application by a qualified oil and gas company under an agreement by a private bank or investment company to provide a loan to the qualified oil and gas company, if the Board determines that—

(1) credit is not otherwise available to the company under reasonable terms or conditions sufficient to meet its financing needs, as reflected in the financial and business plans of the company;

(2) the prospective earning power of the company, together with the character and value of the security pledged, provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan; and

(4) the company has agreed to an audit by the General Accounting Office before issuance of the loan guarantee and annually while the guaranteed loan is outstanding.

(g) TERMS AND CONDITIONS OF LOAN GUARANTEES.—

(1) LOAN DURATION.—All loans guaranteed under this section shall be repayable in full not later than December 31, 2010, and the terms and conditions of each such loan shall provide that the loan agreement may not be amended, or any provision of the loan agreement waived, without the consent of the Board.

(2) LOAN SECURITY.—A commitment to issue a loan guarantee under this section shall contain such affirmative and negative covenants and other protective provisions as the Board determines are appropriate. The Board shall require security for the loans to be guaranteed under this section at the time at which the commitment is made.

(3) FEES.—A qualified oil and gas company receiving a loan guarantee under this section shall pay a fee to the Department of the Treasury to cover costs of the program, but in no event shall such fee exceed an amount equal to 0.5 percent of the outstanding principal balance of the guaranteed loan.

(h) REPORTS.—During fiscal year 1999 and each fiscal year thereafter until each guaranteed loan has been repaid in full, the Secretary of Commerce shall submit to Congress a report on the activities of the Board.

(i) SALARIES AND ADMINISTRATIVE EXPENSES.—For necessary expenses to administer the Program, $2,500,000 is appropriated to the Department of Commerce, to remain available until expended, which may be transferred to the Office of the Assistant Secretary for Trade Development of the International Trade Administration.

(j) TERMINATION OF GUARANTEE AUTHORITY.—The authority of the Board to make commitments to guarantee any loan under this section shall terminate on December 31, 2001.

(k) REGULATORY ACTION.—Not later than 60 days after the date of enactment of this Act, the Board shall issue such final procedures, rules, and regulations as are necessary to carry out this section.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES (RESCISSIONS)

SEC. 202. (a) Of the funds available in the nondefense category to the agencies of the Federal Government, $125,000,000 are hereby rescinded: Provided, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: Provided further, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the Executive Branch, including the Office of the President.

(b) Within 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section.

CHAPTER 3

[BILATERAL ECONOMIC ASSISTANCE

[FUNDS APPROPRIATED TO THE PRESIDENT

[AGENCY FOR INTERNATIONAL DEVELOPMENT

[INTERNATIONAL DISASTER ASSISTANCE

[For an additional amount for ''International Disaster Assistance'', $96,000,000 (increased by $67,000,000), to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[OTHER BILATERAL ECONOMIC ASSISTANCE

[ECONOMIC SUPPORT FUND

[For an additional amount for ''Economic Support Fund'', $105,000,000, to remain available until September 30, 2000, for assistance for Albania, Macedonia, Bulgaria, Bosnia-Herzegovina, Montenegro, and Romania, and for investigations and related activities in Kosovo and in adjacent entities and countries regarding war crimes; *Provided*, That these funds shall be available notwithstanding any other provision of law except section 533 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in division A, section 101(d) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)): *Provided further*, That the requirement for a notification through the regular notification procedures of the Committees on Appropriations contained in subsection (b)(3) of section 533 shall be deemed to be satisfied if the Committees on Appropriations are notified at least 5 days prior to the obligation of such funds: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

[For an additional amount for ''Assistance for Eastern Europe and the Baltic States'', $75,000,000, to remain available until September 30, 2000, of which up to $1,000,000 may be used for administrative costs of the U.S. Agency for International Development: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That funds appropriated under this heading shall be obligated and expended subject to the regular notification procedures of the Committees on Appropriations.

[DEPARTMENT OF STATE

[MIGRATION AND REFUGEE ASSISTANCE

[For an additional amount for ''Migration and Refugee Assistance'', $195,000,000, to remain available until September 30, 2000, of which not more than $500,000 is for administrative expenses: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

[For an additional amount for the ''United States Emergency Refugee and Migration Assistance Fund'', and subject to the terms and conditions under that head, $95,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[GENERAL PROVISION—THIS CHAPTER

[SEC. 301. The value of commodities and services authorized by the President through March 31, 1999, to be drawn down under the authority of section 552(c)(2) of the Foreign Assistance Act of 1961 to support international relief efforts relating to the Kosovo conflict shall not be counted against the ceiling limitation of that section: *Provided*, That such assistance relating to the Kosovo conflict provided pursuant to section 552(a)(2) may be made available notwithstanding any other provision of law.

[CHAPTER 4

[DEPARTMENT OF DEFENSE

[MILITARY CONSTRUCTION

[NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

[For an additional amount for ''North Atlantic Treaty Organization Security Investment Program'', $240,000,000, to remain available until expended: *Provided*, That the Secretary of Defense may make additional contributions for the North Atlantic Treaty Organization, as provided in section 2806 of title 10, United States Code: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $240,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[GENERAL PROVISION—THIS CHAPTER

[SEC. 401. In addition to amounts appropriated or otherwise made available in the Military Construction Appropriations Act, 1999, $831,000,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2003, as follows:

[''Military Construction, Army'', $295,800,000;

[''Military Construction, Navy'', $166,270,000;

[''Military Construction, Air Force'', $333,430,000; and

[''Military Construction, Defense-wide'', $35,500,000:

[*Provided*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out military construction projects not otherwise authorized by law: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request for $831,000,000, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

[CHAPTER 5

[DEPARTMENT OF AGRICULTURE

[FARM SERVICE AGENCY

[AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

[For additional gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, $1,095,000,000, as follows: $350,000,000 for guaranteed farm ownership loans; $200,000,000 for direct farm ownership loans; $185,000,000 for direct farm operating loans; $185,000,000 for subsidized guaranteed farm operating loans; and $175,000,000 for emergency farm loans.

[For the additional cost of direct and guaranteed farm loans, including the cost of modifying such loans as defined in section 502 of the Congressional Budget Act of 1974, to remain available until September 30, 2000: farm operating loans, $28,804,000, of which $12,635,000 shall be for direct loans and $16,169,000 shall be for guaranteed subsidized loans; farm ownership loans, $35,505,000, of which $29,940,000 shall be for direct loans and $5,565,000 shall be for guaranteed loans; emergency loans, $41,300,000; and administrative expenses to carry out the loan programs, $4,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

[OFFSETS—THIS CHAPTER

[BILATERAL ECONOMIC ASSISTANCE

[FUNDS APPROPRIATED TO THE PRESIDENT

[AGENCY FOR INTERNATIONAL DEVELOPMENT

[DEVELOPMENT ASSISTANCE

[(RESCISSION)

[Of the funds appropriated under this heading in Public Law 105–118 and in prior acts making appropriations for foreign operations, export financing, and related programs, $40,000,000 are rescinded.

[OTHER BILATERAL ECONOMIC ASSISTANCE

[ECONOMIC SUPPORT FUND

[(RESCISSION)

[Of the funds appropriated under this heading in Public Law 105–277 and in prior acts making appropriations for foreign operations, export financing, and related programs, $17,000,000 are rescinded.

[DEPARTMENT OF HEALTH AND HUMAN SERVICES

[HEALTH RESOURCES AND SERVICES ADMINISTRATION

[FEDERAL CAPITAL LOAN PROGRAM FOR NURSING

[(RESCISSION)

[Of the funds made available under the Federal Capital Loan Program for Nursing appropriation account, $2,800,000 are rescinded.

[DEPARTMENT OF EDUCATION

[EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

[(RESCISSION)

[Of the funds made available under this heading in section 101(f) of Public Law 105–277, $6,800,000 are rescinded.

[MILITARY ASSISTANCE

[FUNDS APPROPRIATED TO THE PRESIDENT

[PEACEKEEPING OPERATIONS

[(RESCISSION)

[Of the funds appropriated under this heading in Public Law 105–277, $10,000,000 are rescinded.

[MULTILATERAL ECONOMIC ASSISTANCE

[FUNDS APPROPRIATED TO THE PRESIDENT

[INTERNATIONAL FINANCIAL INSTITUTIONS

[CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

[GLOBAL ENVIRONMENT FACILITY

[(RESCISSION)

[Of the funds appropriated under this heading in Public Law 105–277, $25,000,000 are rescinded.

[EXECUTIVE OFFICE OF THE PRESIDENT

[FUNDS APPROPRIATED TO THE PRESIDENT

[UNANTICIPATED NEEDS

[(RESCISSION)

[Of the funds made available under this heading in Public Law 101–130, the Fiscal Year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance, $10,000,000 are rescinded.

[CHAPTER 6

[GENERAL PROVISION

[SEC. 601. No part of any appropriation contained in the Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

[SEC. 602. It is the sense of the Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

[This Act may be cited as the ''Kosovo and Southwest Asia Emergency Supplemental Appropriations Act, 1999''.]

GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in the Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. (a) Amounts appropriated or otherwise made available in chapters 1 and 2 of this Act are designated by the Congress as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)), as amended.

(b) The amounts referred to in subsection (a) shall be available only to the extent that the President makes an emergency designation pursuant to that Act.

This Act may be cited as the ''Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999''.

Amend the title so as to read: ''An Act providing emergency authority for guarantees of loans to qualified steel and iron ore companies and to qualified oil and gas companies, and for other purposes.''.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2000

Mr. LOTT. Mr. President, I ask unanimous consent the Senate resume consideration of the energy and water appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed the consideration of the bill.

Pending:

Domenici amendment No. 628, of a technical nature.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I am aware of the very tight budgetary constraints under which this bill is being considered and I commend the chairman and ranking member for their good, hard work. One concern I have, however, is that the fiscal year 2000 Energy and Water Appropriations bill does not fund the Department of Energy's Scientific Simulation Initiative (SSI). The SSI is not only an integral part of the President's Information Technology Initiative for the 21st Century, but also a key element in the Department's effort to keep the United States at the leading edge of scientific discovery. It is only through scientific modeling on computers 10–100 times more powerful than those now available to civilian scientists that we can address many scientific problems with an enormous potential payoff for the Nation. The SSI will build on DOE's successful history of making leading edge computers available for scientific modeling to provide us with reliable, quantitative and regional information about changes in climate, and help us design more efficient internal combustion engines. It will also help us create more effective drugs and materials, and contribute to our understanding of basic scientific problems in a wide range of disciplines. I hope that, should more funding become available during this year's congressional appropriations process, the Senate will work with the House of Representatives to fully fund this important program.

Mr. LEVIN. Mr. President, I am pleased the managers have accepted the amendment that I introduced along with Senators DEWINE, VOINOVICH, MOYNIHAN and AKAKA, adding funds to help combat zebra mussels and other invasive species which infest U.S. waterways. The funds provided will allow the Army Corps of Engineers (USACE) to meet its responsibilities under the National Invasive Species Act of 1996 to research, develop and demonstrate environmentally sound techniques for managing and removing aquatic nuisance species that threaten public infrastructure in U.S. waters. The Corps' efforts complement the work of other agencies to limit the introduction and spread of new species, providing a desperately needed aquatic invasive species control program.

Mr. President, Zebra mussels in the Great Lakes degrade and disrupt the ecosystem; they endanger other indigenous species, either by consuming their food supply or smothering them, and zebra mussels cause grave economic impacts as they damage public infrastructure. Similar nonindigenous species infestations harm virtually every U.S. waterway and coastal area. Over the years, legislation to prevent and control these invasive species has received strong bipartisan, multi-regional support as a testimony to the serious threat they pose.

The Committee bill includes some other important items for Michigan and the Great Lakes. These include:

$400,000 for preconstruction, engineering and designing improvements to the locks in Sault Ste. Marie.

$1.7 million to repair the north and south piers and revetments at Pentwater Harbor.

$100,000 to complete a study on Environmental Dredging in Detroit River.

$250,000 for corrections to deficiencies associated with the Clinton River Spillway.

$100,000 to complete seawall construction, dredging and other work associated with the establishment of the Robert V. Annis Water Resource Institute at Grand Valley State University.

$200,000 for planning and design of sea lamprey barriers at sites throughout the Great Lakes basin. As my colleagues may know, the sea lamprey is a devastating invasive species that has plagued the Great Lakes since it first appeared and these barriers play an important role in preventing this species spread and population growth.

Funding for the Partnership for a New Generation of Vehicles (PNGV)

Mr. President, on balance, this is a good bill, despite the budget constraints that the managers faced in putting it together.

Mr. DEWINE. Mr. President, I rise today to make a few remarks about a serious threat to my home state of Ohio and to thank the honorable chairman and ranking member of the Energy and Water Appropriations Subcommittee and Senator LEVIN for helping me to address this threat.

Mr. President, sometimes big problems come in small packages. Today, Lake Erie—and just about every other body of water in the Midwest—are threatened by a very small and unwanted intruder, the zebra mussel. This small but prodigious mussel is just one of the many invasive species that have entered this country and which threaten to degrade the natural resource capital of virtually every U.S. waterway and coastal area. Free of their natural predators and other limiting environmental factors, alien species like the zebra mussel often cause grave economic harm as they foul or otherwise damage public infrastructure.

In the late 1980s, the zebra mussel was discovered in Lake St. Clair, having arrived from eastern Europe through the discharge of ballast water from European freighters. The species spread rapidly to 20 states and as far as the mouth of the Mississippi River. U.S. expenditures to control zebra mussels and clean water intake pipes, water filtration equipment, and electric generating plants and other damages are estimated at $3.1 billion over 10 years.

In Ohio, the zebra mussel poses a particular threat to public water intake systems. Ohio has more than 1,900 facilities that collectively withdraw over 10 billion gallons of water per day. The costs to remove or prevent infestations of zebra mussels in large surface water intakes can exceed $350,000 annually.

The mussels threaten native wildlife in Ohio by competing for the food of native fish by filtering algae and other plankton from the water. They have also been shown to accumulate contaminants which can be passed up the food chain. During the summer of 1995, they were implicated as the probable cause of a large bloom of toxic algae in the Western Basin of Lake Erie. The frequency of these large and destructive blooms has increased as the mussels spread through the lake. Since 1988, zebra mussels in Ohio have spread to 10 inland lakes and 6 streams.

Mr. President, along with my esteemed colleague and co-chairman of the Great Lakes Task Force, Senator LEVIN, I urged funding for the effective implementation of a program to help mitigate the impact of zebra mussels in United States waters. Today, I want to thank Senator DOMENICI and Senator REID for continuing to fund important research to control the damage caused by the zebra mussel.

While other agencies work to limit the introduction of new species into U.S. waters, the Army Corps of Engineers has the responsibility under the National Invasive Species Act (NISA) of developing better means for managing those pest species already established. NISA expands existing authority for the Army Corps to research, develop and demonstrate environmentally sound techniques for removing zebra mussels and other aquatic

nuisance species from public facilities, such as municipal water works.

As the range of the zebra mussel expands, control is being undertaken by more and more raw water users. Without the benefit of this research, the control methods chosen may be less efficient, and less environmentally sound than necessary. With the help of Senators DOMENICI and REID and LEVIN I am glad to say that this bill will provide $1.5 million to continue this important work.

The National Invasive Species Act of 1996, which I cosponsored and which reauthorized and expanded the Nonindigenous Aquatic Nuisance Prevention and Control Act, received strong bipartisan and multi-regional support in both chambers, and the full support of the administration, the maritime industry and environmental community. Funding for NISA programs is essential if the benefits of the law are to be realized.

Mr. President, again I want to thank Senator DOMENICI and Senator REID for their attention to this matter.

Mr. TORRICELLI. Mr. President, I rise today out of concern for a provision in the Fiscal Year 2000 Energy and Water Development bill that rescinds funding for a critical flood control project being sponsored by the Hackensack Meadowlands Development Commission (HMDC) in Lyndhurst, NJ. This project first began receiving Federal funds in FY 1995, while I was still a U.S. Congressman, and is necessary to reduce damage to local areas caused by Hackensack River flooding.

Nearly 10 years ago, the HMDC analyzed a number of local areas which experience frequent flooding, and developed a list of improvements designed to reduce damage to the region. At my request, in FY 1995, the HMDC received $2.5 million to make this flood control project a reality, and the agency began to develop a plan to restore several drainage ditches in the area, install tidal gates and reconstruct a major dike system along the Hackensack River.

Regrettably, because of the Army Corps' difficulties in reaching an agreement with the local sponsor on the scope of the work, and with finding a source for the cost-share, only about $100,000 has been spent to date on this project. I understand that this year the subcommittee has targeted projects with unspent balances, and, as a result, the FY 2000 Energy and Water bill contains a rescission of $1.641 million for this initiative.

However, I have been informed that the local sponsor is now ready to sign a Project Cooperation Agreement and that the local cost-share is now available. As a result, I want to work closely with Chairman DOMENICI and Ranking Member REID to address the concerns about the unspent balance while ensuring that this project remains ready to move forward.

Again, I would like to thank Chairman DOMENICI and Ranking Member REID for their consideration and assistance with this initiative. I appreciate their personal involvement in trying to reach agreement on funding for this project, and am hopeful that by working together we can move forward in the effort to reduce flooding damage caused by the Hackensack River.

LEGISLATIVE ACTION IN THE SENATE

Mr. DURBIN. Mr. President, I think most of those who are following the activities on Capitol Hill understand that we are awaiting action in the other body, the House of Representatives, on a measure that was passed here several weeks ago concerning gun safety. This is a measure which received a bipartisan vote, a tie vote on the floor of the Senate, a tie that was broken by Vice President GORE. That issue, which reached, I guess, the highest level of national consciousness, came in the wake of the Littleton, CO, tragedy.

I think most Members of Congress thought we on Capitol Hill had to listen to the families across America who were asking us to do something to make life safer for our school children. The Senate responded. After a week-long debate, we passed legislation and sent it to the House of Representatives—modest steps but important steps in sensible gun control.

It is our hope that the House meets its obligation, passes legislation, and we can achieve something this year on the important issue of safety in our schools. This respite that we currently enjoy, because of summer vacation, should not lull us into a false sense of security about school safety.

Sadly, the names of towns across America remind us that we have a national problem: Conyers, GA; Littleton, CO; Jonesboro, AR; West Paducah, KY; Pearl, MS; Springfield, OR. The list goes on, sadly, to include too many towns, many of which I am sure we would never have guessed would be the site or scene of violence in a school. It has become a national problem.

I hope this Congress, which has done precious little in the last few months, can respond to this issue of school safety and do it quickly. We would be remiss to believe the response to that issue satisfies the needs of the American people as they look to Congress for leadership.

There is an area which most Americans understand and appreciate that, frankly, we have failed to address over the last several years. I refer, of course, to the whole question of the Patients' Bill of Rights and whether or not we, as a Congress, will respond to the need to do something about the state of health insurance in America.

We all know what has happened. There was a debate several years ago, when the Clinton administration first came in, over whether we would do health care reform. That debate broke down on Capitol Hill when the insurance industry spent literally millions of dollars in advertising against any kind of reform. We stopped in place. We did nothing on Capitol Hill.

Families across America, as they look at the changing landscape of health insurance, might assume we passed some sweeping Federal legislation. We did not. What happened was, there were dramatic changes in the private sector without any impetus from legislation on Capitol Hill. Those changes started moving more and more Americans into what is now euphemistically called managed care. Managed care, of course, is a health insurance approach that is designed to bring down costs. I do not argue with the fact that it has brought down costs in some areas. What I argue with is whether or not we have paid too high a price for those costs to be brought down and whether there is a more sensible way to address it.

It is estimated that by 1996, 75 percent of employees with employer-provided health insurance were covered by managed care.

I have traveled around Illinois. I will bet Senators visiting their home States would find the same thing that I did. I visited hospitals in cities and rural areas. I invited doctors and medical professionals to come to the cafeteria and sit around a table and talk about health insurance. I didn't know if any doctors would take time out of their busy day for that purpose, but they did.

In fact, in one hospital, as we were sitting in a cafeteria discussing the issue, all of the doctors' beepers went off. There was a crisis in the emergency room, and they all left. They returned about 45 minutes later, still anxious to carry on the conversation. What these doctors talked to me about was the changing environment in medical care in this country and their concern as to whether or not they could do the right job professionally.

And it wasn't just the doctor's concern. I have heard the same thing from families all across Illinois, and we have heard it across the Nation.

Too many people worry that when they go into a doctor's office with a medical problem, or with a member of their family who is ill, they aren't getting straight talk. They expect doctors to tell them honestly what the options are, the best course of treatment, the best hospital, the best specialist. Unfortunately, because of managed care, there is another party involved in this conversation. It is no longer just the doctor and the patient, or the doctor and the parent of an ailing child; there is also some clerk at an insurance company who is party to that conversation. They might not be sitting at the examining table, but most doctors, before they can recommend anything for a patient, have to get on a phone and call some invisible clerk hundreds, if not thousands, of miles away for approval.

Let me tell you a real life story by a doctor. The doctor said that a mother came in with a young boy and said, ''My son has complained of headaches

for months.'' The doctor said, ''Are they in one particular part of his head?'' She said, ''Yes; on the left side. He always complains about headaches on the left side of his head.''

The doctor thought to himself that there was a possibility that this could be a tumor if the child continued to complain about headaches on one side of his head. So he thought that perhaps he needed some diagnostic treatment—an MRI, CAT scan, or something to tell him whether or not there was the presence of a tumor.

Before he said those words to the mother, he excused himself. He took a copy of her chart and looked up the insurance company and had his secretary call so he could ask the clerk at the insurance company whether or not he could tell this mother they could go ahead with this diagnostic treatment to determine the nature of the child's problem.

The clerk on the other side of the telephone said, ''No, it is not covered; you can't do that.'' The doctor said to the clerk, ''What am I supposed to do?'' The clerk said, ''Tell the mother to go home and wait and come back at a later time if the problem is still there.''

That doctor walked back into the room with the mother present and said, ''I think you should go home and wait and call me in a few weeks if things have not changed.'' He could not, under his contract with the insurance company, even tell the mother why he had been overruled on his course of treatment. That is what is known as a ''physician's gag rule.''

What that means for too many Americans is that when you sit across the table from a doctor, you are never certain whether that doctor is telling you everything you ought to know. When we erode the basic confidence in the relationship between a doctor and a patient, we have gone a long way in this country in undermining quality health care, which has been one of the hallmarks of America. The physician-patient relationship is so sacred under the law that it is recognized in court as a special, confidential relationship. Yet that very relationship is being undermined because of this fact.

Managed care restricts a doctor's right to decide and his or her right to even tell you why he has made a certain decision.

That is not the end of it by a long shot. In addition, many managed care policies restrict the hospitals to which patients can go. I belong to a managed care plan in Springfield, IL. We have two excellent hospitals, but my plan really focuses on one hospital and says, you will go to this hospital to the exclusion of the other hospital, or it will cost you. It is not a big problem where I live, because the hospitals are a few blocks from one another. But in some areas of urban America, and in rural America, it can be a problem.

In what way? Well, consider this. You are in your backyard at a family picnic for the Fourth of July, and the kids are playing around, as I just went through with Memorial Day at a family get-together. They are climbing trees, and a child falls out of a tree and starts crying, and there is fear that he might have broken his arm, or worse. They take off for the emergency room.

But wait. Before you take off for the nearest emergency room, you had better ask yourself: Does my health insurance policy cover emergency care at that hospital? Do I have to drive across town or to some other hospital under the terms of my policy? It makes no sense. If there is a situation of medical necessity to protect your child or a member of your family, you should not have to fumble around and try to remember which hospital is covered by your plan. Instead, you should do what is right for your family. That is one of the elements I think many people are concerned about when it comes to this whole question of managed care.

There is also a question about the cost of this managed care and the accessibility of this care for many employees. It is a fact of life in America that each year fewer and fewer working families in America have the benefit of health insurance protection. Fewer and fewer employers are offering it. We are drifting away from our goal of universal health coverage and leaving more and more Americans vulnerable. That is a classic example of what is wrong with our system today, an instance of what we need to do in order to make certain that every American has the peace of mind to know they have health insurance coverage.

(Mr. BROWNBACK assumed the Chair.)

Mr. SCHUMER. Will the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. SCHUMER. I thank the Senator from Illinois. I am in complete sympathy with the remarks he has made.

Everywhere I have gone in my State, people have brought up one horror story after the next, whereby, say, accountants are making medical decisions instead of doctors. I would like to relate to the Senator an instance that I heard about, which was really frightening to me, and see if the kind of proposal we are talking about might deal with that issue.

There was a young woman on Long Island, 24 years old and beautiful, who had just got out of nursing school. She was an athletic individual. She went to a physician because her upper leg was hurting. She went to the physician, who determined that she had a tumor on the bone. The physician recommended and told her privately that she ought to go to an orthopedic oncologist because they had to take the tumor off. She went to her HMO. The HMO said: No, no, no. All you need is a regular orthopedic surgeon.

Well, this was not a well-to-do family. She had her health plan because her father had retired as a lineman for the phone company. She figured she would go along. She went to where the HMO recommended—to a regular orthopedic surgeon. The operation was had, and he said it was a success.

Two months later, the tumor grew back. She called the HMO and said, ''I really need an orthopedic oncologist.'' They said no. She then paid something like $45,000 or $50,000; she went into hock with loans to get the operation done, which was a success. A day after the operation occurred, the HMO wrote her a letter saying, ''All right, you are right; we will give you an orthopedic oncologist.'' But it was too late. She said, ''Why don't you reimburse me?'' They said no way. After a lot of intervention from my office and others, they have finally reimbursed her.

One of the things that has been mentioned as part of the Patients' Bill of Rights is guaranteed access to appropriate specialists. I was just wondering if the Senator from Illinois could enlighten us as to—in that type of situation, which I am sure is repeated time and time again—how the Patients' Bill of Rights might rectify that situation.

Mr. DURBIN. I thank the Senator for that question.

Sadly, the Senator's experience can be repeated in almost every State under managed care plans. What we are trying to provide in the Patients' Bill of Rights, supported by the Democratic side, is a continuity of care and access to specialists when needed. I think that just makes common sense. I can't imagine anyone, such as this lady the Senator mentioned, or others, who would want to compromise the best care possible to make sure they are taken care of.

Here is another example you are probably aware of. Many times, companies will change managed care plans. Someone who, for example, is going through cancer therapy and believes they have good, quality care that is very promising in terms of full recovery may find a change in managed care plans which makes that doctor, that clinic, or that hospital ineligible. So that is another area where, frankly, we want to restore peace of mind among the people across America—that they would have this kind of access, access with continuity—even if a change in plan has taken place through the employer.

This access to needed specialists becomes equally important, because most managed care plans have what they call gatekeepers. These gatekeepers are general practitioners, family internists, and the like who try to decide whether or not you need a specialist. Many specialists have come to me and said they have limited training, but they have specialized training. And they are encouraged to pass them along the chain to a specialist who might be initially more expensive but, frankly, might save that patient a lot of worry, perhaps suffering, and perhaps provide a cure that might not otherwise be available.

That is the kind of thing that I think families across America are concerned about.

They look at Capitol Hill and say: Do you get it up there? Do you understand? These are things our families worry about when we think we have the protection of health insurance, and, yet, we are so vulnerable. What are you doing about it in Washington?

The honest answer is, we have done nothing.

The question is, before we leave town this year, perhaps even this month, whether or not we can bring up this bill, the Patients' Bill of Rights, and address some of the real family concerns we have run into.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. SCHUMER. Again, I couldn't agree more with the Senator. These are the kinds of things, it seems to me, that our constituents sent us to Washington to do—not to spend all day debating all sorts of things that have very little relevance to their lives but to try to solve the problems that families face.

I find families from one end of my State to the other are just totally frightened about the ability to pay for health care and are frightened that the HMO that they have is really not giving them good medical care, that it is putting dollars above health care.

There is nothing wrong with HMOs. In fact, a lot of them have done a good job in terms of reducing costs. But the pendulum has swung, it seems to me, too far.

When physicians who spend years and years of training, and whom this country subsidizes to train, are no longer making the decision, it seems to me the Senator has made a great point: It not only hurts health care but it actually costs more money. The example I gave is an example where the operation has to be gone through twice because it was done so poorly the first time.

My issue is, from what I understand, oftentimes, in access to specialists as well as access to procedures, the gatekeeper is not even a physician; some HMO is the gatekeeper. Someone who is an actuary is looking at tables and statistics, and things like that, and overrules the actual decisions of the medical doctor or the specialist.

Is that true in the Senator's State as well?

Mr. DURBIN. It is. I was in Joliet, IL, at a hospital cafeteria, sitting at a table full of doctors. One of the doctors was so angry because he kept getting this clerk on the phone: No, that patient can't be admitted. He finally said to the voice on the other end of the phone: Are you a doctor? The employee of the insurance company said no. Well, are you a nurse? No. Well, are you a college graduate? No. How can you possibly overrule my decision on treating a patient? She said: I am going by the book.

She had a book in front of her that had the complaints that a person might register and whether or not a treatment was warranted.

That medical care has now been reduced to the level that we have people who are reading books and overruling doctors who have been trained gives everyone concern.

One of the reasons we need to bring up this Patients' Bill of Rights is to make sure that doctors and medical care personnel across the country can make the best professional decision for the people they treat—a decision based on a person's health and their well-being as opposed to the bottom line profit margin of the insurance company that is involved in it.

Mr. SCHUMER. If the Senator will yield, I have one final question. This is not a new issue. In other words, I think we have heard about the Patients' Bill of Rights for at least a year or two. I am new to this body.

Have there be any attempts to deal with this issue in the past? What has happened? What is stopping us from just voting on this right now? I am sure it is a measure that the American people in every one of our States want us to discuss. What has been the history of this legislation?

Mr. DURBIN. I thank the Senator from New York. The history of the legislation has been frustrating, because we came close to debating it last year, then it fell apart.

There are two different points of view: The Republican side of the aisle, not exclusively but by and large, has their own approach. The Democratic side of the aisle has its own approach on the Patients' Bill of Rights.

We would like to bring this out for a debate. Let's have a debate. Let's act as a legislative body, as we did during the gun debate. Let's let the American people in on it. Let's let them hear arguments over the amendments on one side and then the other, and let them join us in this decision-making process. Unfortunately, that broke down last year and there has been no evidence of an effort to revive it this year.

We need to remember that in a few weeks, literally, we will all be heading home for the 4th of July recess, then for the August recess, and many people will say to us: Incidentally, what have you done? What is happening in Washington? If we can't point to real-life issues that families care about, they have a right to be upset and wonder if we are doing our job.

So I say to the Senator from New York, precious little has been done on this subject. But we are prepared to go forward with debate. I think that is what this body is supposed to be all about—the world's most deliberative body, the Senate.

Let's not be afraid of amendments. Let's not be afraid of votes. I invite the Members on the other side of the aisle to join us. Let's put the issue on the floor. Let's come to some conclusion, send the bill on to the House and challenge them to do the same thing, bring the President into the conversation, and say to the American people that we are doing what you sent us to Washington to do—to respond to things that people really care about.

Mr. SCHUMER. If the Senator will yield once more, it seems to me that, again, if there is anything we should be doing, it is things such as this. There are lots of important issues. This is a big country. We debate all sorts of things.

But, again, I go around my State. I can't think of anything that people care more about, that we can do something concrete about, that is not a radical solution. This is not something that says scrap the whole system and start from the beginning; this is simply something that redresses the balances so people can have faith in their physician.

This is an amazing thing to me. I don't know if the Senator has found this. But as I go around the State, perhaps the most frustrated group is the doctors themselves. They are hardly a group of wide-eyed crazy radicals. The doctors come to me in place after place with anguish in their eyes, and they say: You know, I have spent so many years, I went to college and took all of the courses, I went to medical school, I performed a residency, and I practiced medicine in the way I chose, in the best I way I know how, for 30 years, and now, all of a sudden, because of these changes in health care, I can't deliver the quality health care that I want for my patients, whom I care about, many of whom have been my patients for decades.

I would join my colleague in urging that we in this body debate and debate rather quickly a Patients' Bill of Rights. We don't have the only approach. Let every approach be aired. Let us have a real debate on the issue. But let's not walk away from here before the July 4th break without having a Patients' Bill of Rights.

I am wondering if the Senator thinks that is within the timeframe of possibility that we could get such a Patients' Bill of Rights.

Mr. DURBIN. I thank the Senator from New York.

We just spent 5 days debating whether or not certain computer companies should be protected from liability on Y2K problems. That is a serious issue. It is a bill that we passed today. We spent 5 days debating it. I think we owe the American people to spend at least 5 days, if not more, debating the Patients' Bill of Rights. We have the time to do it. We don't have an overload of activity in the Senate, but we have an overload of responsibility when it comes to the health care issue.

The last point I will make before giving up the floor is on the question of liability. Remember the example I used earlier about the doctor who couldn't tell the mother that it wasn't his decision that her son couldn't have an MRI or CAT scan. He couldn't tell her. It was the insurance company's decision.

Let's assume for a minute that something terrible occurred, and that child

didn't have a brain tumor, and in fact suffered some long illness, or recuperation, or maybe worse. Do you know that under current law, as written, in many of these managed care plans, even though the insurance company made the bad decision, the insurance company overruled the doctor, the insurance company could not be held accountable for its wrongdoing in America?

There are very few groups that are immune from liability. I think foreign diplomats are one. When it comes to this issue of managed care and insurance companies, many doctors are saying: That is not fair; we want to make the right medical decision, and we are overruled by the insurance company. The doctors get sued. The insurance companies are off the hook.

That is not what this system or what this Government is all about. It is about accountability. I am held accountable for my actions as the driver of a car, as the owner of a home—all sorts of different things. Why should we exempt health insurance companies and say they are not going to be held liable for bad decisions—decisions not to refer you to the right specialist, decisions not to allow you to stay in a hospital, decisions not to allow you the kind of care you need? That, to me, is the bottom line in this debate.

I see Senator KENNEDY on the floor. He has been a leader on this issue. I thank him for joining in this discussion. I hope he can give Members some instruction.

I yield to the Senator for a question.

Mr. KENNEDY. Mr. President, I want to join my friend, the Senator from Illinois, in his presentation, as well as the Senator from New York, and urge that Members in this body begin debate on one of the most important pieces of legislation that we, hopefully, will have an opportunity to consider; that is, how we will ensure that medical decisions are made by those in the medical profession, rather than the accountants and the insurance companies.

The Senator has made that case with an excellent example this afternoon. I wonder whether the Senator realizes it has been over 2 years we have had legislation pending before the Senate. The Human Resources Committee has the jurisdiction, and we were effectively denied—I know the people who are watching or listening are not really interested in these kinds of activities. We have to have the hearings in the committee. Then we have to try to work the will of the committee and report it out to the Senate.

This legislation has been before the Senate for 2 years, but we were not even permitted to have a hearing under the leadership of our friends on the other side, the Republican leadership. We were denied the opportunity to debate these questions when we tried to bring this up in the last Congress.

I gather from what both Senators have said, they believe, as I do, that this is one of the fundamental and basic issues of central concern to families all over this country. If we can spend 5 days dealing with the Y2K issue, we can certainly afford to spend a few days—perhaps not even the 5 days, 4 days—on an issue that is so important to families, families who may have an emergency, families who may want to have clinical trials for the mother, the grandmother, or the daughter, to deal with problems of cancer. Or the whole issue of specialty care, to make sure those who need the kinds of prescription drugs necessary to deal with a particular illness and sickness would be able to get them.

I wonder if the Senator would agree with me that included in Senator DASCHLE's legislation is a series of recommendations that were made by a bipartisan panel to the President, with Members who were nominated by the leaders of both parties and by the President of the United States. It had to be unanimous. They made a series of recommendations. Those recommendations have been included in Senator DASCHLE's Patients' Bill of Rights. The only difference was the panel recommended they be voluntarily accepted. We have seen that the companies are unwilling to accept those. The leader has said if they are not going to accept them voluntarily, we will include them, but they reflect a bipartisan panel.

Secondly, they include some other recommendations that have been recommended by the insurance commissioners. They are not a notorious group favoring the Democrats or Republicans. I imagine, if you looked over the field, most of them are actually Republicans. They made some recommendations. Those effectively have been included.

Finally, there are the kinds of protections that have been included in the Medicare and Medicaid programs. We don't hear a murmur from the other side about those protections not being effective.

If that is the basis of this legislation, and it has the support of 130 groups that have responsibility for treating the American families in this country, why in the world shouldn't we have an opportunity to debate it?

On the other hand, our Republican friends haven't a single group, not one, that represents parents, children, women, or disabled that support their program. Can the Senator explain to me why, if that is the case, we are being denied? Does the Senator agree it is completely irresponsible to deny the Senate the full opportunity to debate these measures?

Mr. DURBIN. I am happy to respond.

I think the Senator's question is rhetorical. But if we can spend 5 days debating protection for computer companies, can't we spend 5 days debating protection for America's families concerned about the quality of the health care available to them and their children?

I think that is obvious. I think the Senator has clearly made the point about the number of groups that endorse the Democratic approach to that, that they could and should have that kind of debate.

I see the minority leader on the floor, and I am happy to yield.

Mr. DASCHLE. I congratulate the Senator from Illinois and the Senator from New York for beginning this colloquy this afternoon. Certainly, the Senator from Massachusetts is a leader on health issues. This is, without a doubt, the single most important health issue facing this Congress this year, next year, and for however long it takes to pass.

Senator KENNEDY's question is right on the mark: Why is it, with all of these groups that are urging the Senate to act, that are waiting for the Senate to act, that cannot understand why we have not acted, why is it we cannot schedule legislation this week to get this bill passed?

If we can do Y2K, if we can do the array of other matters that have come before this Congress this year, for heaven's sake, why, with 115 million people already detrimentally affected, can't we do it this week? There isn't an answer to that question.

I ask the Senator from Illinois if, from the experiences he has had in his own State, he has heard any other issue having the resonance, having the depth of feeling and meaning to the families of America that this issue does; whether or not he ever had the kind of experience I have had where people come up and volunteer that there is no more important question facing this Congress than this issue, and they want Members to solve it; has the Senator had a similar experience?

Mr. DURBIN. I have had a similar experience. Not only is this an important issue, the human side is compelling. We hear the stories from the Senators from New York and Massachusetts, and we have run into these real-life stories. These are not the kinds of stories you dream up or see on television.

People worry on a day-to-day basis whether they can protect themselves and their own families under this managed care Patients' Bill of Rights, on which Senator DASCHLE is the lead sponsor. It gives a framework to give assurance to these people so they can have confidence that not only good health care will be there but quality health care that will help respond to a lot of the family tragedies which we hear over and over as we travel about our States.

The other side of the aisle makes a serious mistake if they do not understand this is a very bipartisan issue. I am just not hearing from Democrats or Independents; I am hearing from Republicans and Democrats and Independents alike. All families are in the same predicament. All families look to the Senate to focus on this issue, which means so much to the future of this country.

Mr. DASCHLE. I thank the Senator for his leadership and comments he has made.

Obviously, time is running out. We have 6 weeks left before the summer recess begins in August. We have a few weeks left in September and October, and then we are at the end of the session already.

We have very little time to address an issue of this importance. That is why we have indicated we will find a way to ensure this issue is addressed in June. We cannot wait any longer. We waited last Congress. We waited and came up with as many different ways with which to approach this issue procedurally as we knew how. We failed to convince our Republican colleagues to join this side of the aisle in passing it last year. We will not fail this year. We will get this legislation passed. It has to happen this month.

I thank the Senator for his leadership and for cooperating and making this a part of our schedule this afternoon.

Mr. KENNEDY. Will the Senator yield?

Mr. DURBIN. I am happy to yield to the Senator.

Mr. KENNEDY. I express appreciation for the very excellent commitment of our leader on this issue. He has been tireless in the pursuit of the protections of our fellow citizens in the health area.

I see the Senator from New York on his feet. I will ask one or two questions and then I will yield. Is one of the points the Senator from Illinois thinks worth debating, with the approach that has been taken by our Republican friends, the limited number of people who are actually being covered? As one who was the author of the HMO legislation in the 1970s, we passed it five times here in the Senate before we finally got the House to pass it.

Then it was passed and it was on a pilot program. But the concept at that time was we were going to change the financial incentives from having more and more tests and more and more treatment to having a capitation payment that said to the health delivery system you have this amount of money to take care of this patient, so they have an incentive to work for preventive health care, keep the person healthy. They get more resources the healthier the person is and the longer the person stays healthy. But we have seen abuses where they have cut back on more and more of the coverage. That has stimulated this whole program.

The fact remains, under the Republican proposal we find out that somewhere above a quarter, about 30 percent of all of those who are covered, and even a lesser percent of HMOs, which is really the problem, are actually covered. Would this not be an issue that ought to be debated out here, that the Members of this body ought to be able to make some call about? I do not think that is a very complex issue. Do we want to cover 30 percent or do we want to cover 100 percent? How long do you think that issue would really take, for people to understand it and be able to express a view? It does not seem to me that would take a very long time. People can make that judgment. People ought to be able to make that judgment. Does the Senator agree?

Mr. DURBIN. I agree with the Senator from Massachusetts. Isn't it an interesting analogy to the debate we had on guns, where we had amendments coming before us, and when the public had a chance to take a look at it they were satisfied that amendment does not achieve the result we want, keeping schools safer and guns out of the hands of children and criminals? The debate ensued for the week we were on it, and when it was all over the public prevailed. They passed a real sensible gun control bill as opposed to one that did not do the job.

I think what the Senator from Massachusetts says is let's let the American public in on this debate, too. Do they think covering one out of three families is enough, or do we want to make sure we have a bill similar to the Democrats' Patients' Bill of Rights which really provides protection and assurance of quality health care for the vast majority of families under managed care plans? I think the Senator is right. That deserves to be debated on the floor of the Senate.

Mr. KENNEDY. Just a final point. Does the Senator agree with me that now the insurance industry has spent somewhere around $15 million to misrepresent and distort the Patients' Bill of Rights, which has been introduced by our leader, Senator DASCHLE, and of which many of us are cosponsors? They have spent that last year doing that, when people thought we were supposed to take it up. If you ask across the spectrum of America about the importance of this issue, the American people still want action taken. They still want to have these protections for themselves and for their families. I think this is a clear indication.

I think our friends on the other side ought to understand that Americans understand this issue. I think parents understand it. I think mothers and grandparents understand it best. Those who are opposed to it can distort and misrepresent and advertise, as they have done in the past, but American people know what this issue is all about.

Does the Senator not agree with me on that, and that the American people want action by this body?

Mr. DURBIN. I agree and I think we have precious little time left to respond.

I yield to the Senator from New York.

Mr. SCHUMER. Just one final question to the Senator. I first thank the Senator from Massachusetts for the eloquence and passion and intelligence that he brings to these issues, and our leader, Senator DASCHLE, for sponsoring this legislation and leading us in this regard.

When you walk into an emergency room, the first question you should be asked is not: What is your coverage? It should be: Where does it hurt? Yet, these days, the way our system is working, the first question that often has to be asked is: What is your coverage? That is so totally wrong.

One of the reasons I ran for the Senate was so I would have the opportunity to debate these bills, because the procedures in the Senate allow the American people, through their elected Representatives, to debate in a much wider way than the process in the House. Yet we are not being allowed to debate this, even though we have wished to do it.

I ask my senior colleague, what holds us back? I mean, why can we not debate this issue? Not everyone is going to have the same view, but I think everyone would agree this is an issue on the very top of the list of things that most Americans care about. What can hold us back? What is holding us back from debating an issue as important as the Patients' Bill of Rights?

Mr. DURBIN. I think it is a matter of political will and it is a question of whether the leadership on both sides of the aisle can agree on a schedule.

I see on the floor the majority leader, Senator LOTT. For the purpose of answering a question, I yield to the majority leader. Will he tell us whether or not we plan on scheduling this Patients' Bill of Rights for consideration in the next several weeks?

Mr. LOTT. Mr. President, the Senator asked a question and yielded to me for a response. First of all, I am standing so we can make an announcement about what the schedule will be for the remainder of the night and to get an agreement about how we will proceed during the day tomorrow. As soon as this 15-minute block of time that was agreed to is exhausted, I will be prepared to go to this.

In answer to the Senator's question, I will be delighted to go to this Patients' Bill of Rights very soon. We could even do it next week if we could get an agreement that we will vote on your version of the Patients' Bill of Rights and we will vote on our version of the Patients' Bill of Rights. We have a good bill. We are ready to go. We think there are important things that need to be done in this area, and we are prepared to debate the issue and vote on the two different approaches. So we can do that.

Or we can work together and see if there would be a limited number of amendments that could be agreed to that would be offered on both sides. The problem we ran into last year is somebody said we will need 100 amendments. Please. We have lots of other work. If the Senator has a perfect product and we have a perfect product, why do we need 100 amendments? Then it got down to 20 amendments on each side.

But I have designated Senator NICKLES to work with the designee from the Democratic side of the aisle. I believe Senator DASCHLE has indicated Senator KENNEDY will do that. They are going to try to get some agreement on exactly how to proceed. We will be glad to vote on the two versions any time Senators are ready, because we think this is important. We have a bill that was developed by a task force that had broad involvement. Senator JEFFORDS was involved, as were Senator COLLINS, Senator GRAMM, Senator NICKLES, Senator SANTORUM—really a good group. So we are ready to go. It is just a question of getting an agreement on how the procedure will be worked out.

Mr. DURBIN. If I might, without yielding the floor, say first to the majority leader, I was told Senator DOMENICI was going to come forward to urge a vote or something of that nature. I have not seen him at his desk, but I am happy to yield the floor.

But I ask the Senate majority leader one last question: If we could reach an agreement that we would limit the length of debate on Patients' Bill of Rights to the same period of time, the 5 days we spent on the Y2K, would that be a sound basis for agreeing that next week we would take up the Patients' Bill of Rights?

Mr. LOTT. I would have to take a look at that. First of all, I think 5 days is probably excessive. There was no need to take up 5 days on the Y2K bill. We could have done that in 2 days very easily, but there were a lot of obstruction tactics and delays—having to vote on cloture. Finally, we came to a conclusion and 62 Senators voted for it. I am not prepared now to say we want to go that long or limit it. I think we need to look at what we need, have a fair debate, and get votes on the substitute. We do not have a list of the amendments. We have asked for a list of the amendments so we are in the process of trying to get an understanding of what is going on here.

I want to reemphasize we are aware that there needs to be some things done in terms of patients' rights. We have a good bill. We do not think the solution to the problem is lawsuits. Some people seem to think what we need to solve the problems of managed care is more lawsuits. No. If I have a problem with a HMO in my family, I would prefer to have a process to solve the problem, either internally or an external appeal. I would prefer not to be the beneficiary of inheritance as a result of a lawsuit 3 years later. So that is kind of the crux of it.

We have Dr. BILL FRIST who has worked on this, I mean a doctor, somebody who understands what it is like to have your heart replaced, someone who understands the need for managed care. We want to do this, so we will be glad to work with all the Senators who are interested. We would like to get a list of amendments. I think it would be fair for the other side, Senator KENNEDY, to want to look at our amendments. I hope that process is underway.

Senator NICKLES has been designated to work on this issue on our behalf, and he might want to respond to your question, if you would yield to him for that.

Mr. DURBIN. I ask you or Senator NICKLES one last question, brought on by what you just said.

Can we then agree we will bring this up for debate before we break for the Fourth of July recess so we can say to the American people we understand the importance of this issue? We have a difference of opinion on liability and other questions. Before we leave for the Fourth of July recess, we will have a vote on final passage on the Patients' Bill of Rights?

Mr. LOTT. As soon as we get agreement on how to proceed, we will take it up. We will be glad to vote on your substitute and our substitute. We could do that this week, but if it is going to be that you have some amendments or you want more debate, then we have to work through when that is going to be. I was ready to do this bill last year, and we could not get a reasonable agreement on how to handle it. If we get that worked out, we will be glad to do it.

Mr. NICKLES. Will the leader yield?

Mr. LOTT. I do not have the floor.

Mr. DURBIN. I will be happy to yield to the Senator from Oklahoma.

Mr. NICKLES. I will make a couple comments. The leader said we would be happy to vote on the Democrat bill, and we would be happy to vote on our bill. We made that offer last year, I might mention. We asked unanimous consent to do that on two or three occasions last year. We also made a unanimous consent request last year a couple of times to have a limited number of amendments. That was not agreed upon.

I will inform my colleagues, I did discuss this last Wednesday with Senator DASCHLE and Senator KENNEDY. They expressed a desire to bring it forward. I said I think we have to have some kind of time constraints and limit on amendments. I did request that. They said they would be forthcoming in giving me that list. We have yet to receive it. Our staff requested it from them as late as Friday. We have yet to receive that list. Once we receive that list, we will try to see if we cannot negotiate some reasonable time agreement to get this thing resolved.

Mr. DURBIN. I say, reclaiming my time, one of my colleagues and friends from the home State of the Senator from Oklahoma, the late Congressman Mike Synar, used to say: If you don't want to fight fires, don't be a fireman. If you don't want to cast tough votes, don't be a Member of Congress.

I think we ought to welcome the possibility of having some tough votes on amendments. Let the Democrats squirm, let the Republicans squirm, and let the body work its will. Don't be afraid of some amendments. Let's bring out the best ideas on both sides and see if we can craft it together in a bipartisan bill.

If we limit this debate to a few days or a certain number of amendments, there is no reason why we should not be able to accomplish this in the next week or two. Insulating Members from casting a tough vote on what might be a difficult amendment really should not be our goal. The goal should be the very best legislation and the body working its will. If we have an up-or-down vote, take it or leave it, that is an odd way for the Senate to view this issue.

Mr. DASCHLE. Will the Senator yield?

Mr. DURBIN. I yield to the Democratic leader.

Mr. DASCHLE. We still have not seen the text of whatever it is we are supposed to be amending. The Senator from Oklahoma and I talked about that last week. He indicated it is going to be roughly the bill that passed out of the Labor Committee with some changes, as I understand it, but we have not seen the changes.

I must say, it would not be in keeping with the traditions in the Senate that we need approval from the majority with regard to amendments before we can move to a bill. We are determined to be as cooperative as we can, but at the same time, we certainly do not seek our Republican colleagues' approval on a list of amendments. That should not be our requirement.

We want to offer amendments that we expect to be debated and considered and hopefully voted on. As the Senator from Illinois has said, there are going to be tough votes on all sides on this issue, but they are issues that have to be addressed. If we are going to deal with a Republican bill that was passed out of the committee with an expectation that, obviously, that may be the bill that passes, we are going to have to try to amend it.

We do not have any expectation necessarily that our bill can pass without some Republican support. We hope it will be, and we will work with our Republican colleagues to support the Democratic bill. But we have to have an opportunity to offer amendments, and we will protect our Senators' rights to offer those amendments, and hopefully we can work through this.

We are prepared to come up with a reasonable list. I have suggested 20 amendments, which is probably a third of what our colleagues would like to offer on this side alone. But we will come up with a list. I certainly do not expect that we will need to seek approval, however, from our Republican colleagues before we offer them.

I thank the Senator from Illinois.

Mr. DURBIN. I yield to the Senator from New York, and then I will yield the floor.

Mr. SCHUMER. Briefly, because I know we want to move on.

Just as an example, I ask the Senator this question: Our bill, it is correct, has the right to sue, and I respect the view of many on the other side. Our bill, for instance, has a far more ample

provision about having access to specialists. There might be a good number of Members in this body who want to see greater access to specialists but not support the right to sue, and conversely. Giving us the right to do some amendments might perfect a bill that can pass. I ask the Senator, my being new here, if that would be sort of an ideal way that could work?

Mr. DURBIN. That is the way a deliberative body works. It deliberates and makes choices. It is important to make our views known on the Patients' Bill of Rights and helping millions of American families concerned about the adequacy of their health insurance and whether they have guarantees to quality care.

I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2000

The Senate continued with the consideration of the bill.

Mr. LOTT. Mr. President, for the information of all Senators, the Senate is presently considering the energy and water appropriations bill. There are now, and have been, negotiations taking place in the Cloakrooms to put the finishing touches on the managers' amendment which will encompass most, if not all, of the remaining amendments.

While progress is being made, final passage on that vote is not anticipated this evening. Therefore, I do want to get a unanimous consent agreement about how we will proceed tomorrow. If we get that entered into, then we will not expect further votes tonight. The managers will remain tonight to complete action on the appropriations bill, and final passage will occur tomorrow, hopefully in a stacked sequence, beginning at approximately 10:45.

Once again, if we get this unanimous consent agreement, then there will be no more votes tonight, and the first votes will occur in the morning at 10:45.

UNANIMOUS CONSENT AGREEMENT—S. 331 AND S. 1205

Mr. LOTT. Mr. President, I ask unanimous consent that at 10 a.m. on Wednesday, June 16, the Senate proceed to the consideration of S. 1205, the military construction appropriations bill; that there be 10 minutes for debate, equally divided in the usual form, with an additional 5 minutes for Senator MCCAIN, with no amendments in order to the bill. I further ask unanimous consent that there be 20 minutes, equally divided in the usual form, relative to S. 331; that is the work incentives bill. I finally ask unanimous consent that following the expiration of all debate time, the Senate proceed to vote on final passage of S. 1205, the MILCON appropriations bill, to be immediately followed by a vote on passage of S. 331, the work incentives legislation, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Therefore, all Senators should be aware, there will be at least two stacked votes occurring at 10:45. In addition, there may be another vote or two on or in relation to amendments on the energy and water appropriations bill and final passage of the appropriations bill. All Senators will be notified when those agreements are reached.

I now ask unanimous consent that with respect to S. 1205, when the Senate receives from the House the companion measure to this bill, the Senate immediately proceed to the consideration thereof; that all after the enacting clause be stricken and the text of the Senate-passed bill be inserted in lieu thereof; that the House bill, as amended, be read a third time and passed; that the Senate then insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees on the part of the Senate, with the foregoing occurring without any intervening action or debate. I further ask unanimous consent that with respect to S. 1205, the bill not be engrossed and that it remain at the desk pending receipt of the House companion bill; and that upon passage of the House bill, the passage of S. 1205 be vitiated and the bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—HOUSE LOCKBOX SOCIAL SECURITY LEGISLATION

Mr. LOTT. Mr. President, I ask unanimous consent that immediately following the stacked votes on Wednesday, there be 1 hour for debate, equally divided in the usual form, prior to the vote on a cloture motion involving the House lockbox Social Security legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

CHANGE OF VOTE

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recorded as voting ''aye'' on vote No. 167, a vote today on the cloture motion. It would not have changed the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. INHOFE. I yield the floor.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, June 14, 1999, the federal debt stood at $5,608,264,664,474.06 (Five trillion, six hundred eight billion, two hundred sixty-four million, six hundred sixty-four thousand, four hundred seventy-four dollars and six cents).

Five years ago, June 14, 1994, the federal debt stood at $4,605,762,000,000 (Four trillion, six hundred five billion, seven hundred sixty-two million).

Ten years ago, June 14, 1989, the federal debt stood at $2,784,398,000,000 (Two trillion, seven hundred eighty-four billion, three hundred ninety-eight million).

Fifteen years ago, June 14, 1984, the federal debt stood at $1,519,266,000,000 (One trillion, five hundred nineteen billion, two hundred sixty-six million).

Twenty-five years ago, June 14, 1974, the federal debt stood at $473,308,000,000 (Four hundred seventy-three billion, three hundred eight million) which reflects a debt increase of more than $5 trillion—$5,134,956,664,474.06 (Five trillion, one hundred thirty-four billion, nine hundred fifty-six million, six hundred sixty-four thousand, four hundred seventy-four dollars and six cents) during the past 25 years.

HAWTHORNE ARMY DEPOT

Mr. REID. Mr. President, today—for the first time in many months—there is peace in Kosovo.

Like all Americans, I hope with all my heart that the peace will be both lasting and just.

I rise today not to discus the war—or the way it was conducted—or the terms on which it was ended.

Many Americans risked their lives in the air over Kosovo in the bombers and helicopters flying over the front lines. Every night, America watched the heroism and skill of those pilots as they braved anti-aircraft fire to drop laser-guided bombs and missiles and other ordnance onto targets with amazing accuracy.

But what we often forget is that those heroics were made possible by the efforts of thousands of Americans working behind the lines, off-camera, in a variety of roles—maintaining the planes, feeding the pilots, shipping supplies, performing countless other functions critical to men and women in combat.

Now that the war is over, I think that we owe all of those countless Americans, who helped in ways both large and small, a nod of thanks for their sacrifice and for their effort.

Today, I particularly want to acknowledge the unique contribution of several hundred men and women from my home state of Nevada.

The war in Kosovo was the first successful large-scale campaign waged exclusively by air. Much more than other wars, that kind of war relies heavily upon specialized ordnance—the laser-guided smart bombs and precision rockets that were so effective in destroying Slobodan Milosevic's infrastructure and weapons of war.

Many of those weapons were supplied by the hardworking men and women of Hawthorne Army Depot in Nevada.

Hawthorne Army Depot in Nevada is the largest ammunition storage facility in the world. It employs about 500 people in the state of Nevada, and stores munitions of all kinds for our Armed Forces.

For the past several weeks, many of those 500 men and women worked overtime—sometimes working 12 to 16 hour days, for days on end—to supply many of the bombs, rockets, shells, and missiles used to such devastating effect in Kosovo.

During the course of the war, Hawthorne Army Depot shipped about 10,000 tons of munitions to our troops in Kosovo, including hundreds of the 750-pound bombs used to destroy Slobodan Milosevic's infrastructure.

And even though the war is over, their job is not. They still have a long, tough job ahead of them to replenish the weapons and munitions expended during the closing days of the conflict, to supply the peacekeeping forces now entering Kosovo, and to return to storage the thousands of bombs and munitions being shipped back now that the fighting is over.

I take this opportunity to say to those hardworking men and women at Hawthorne, thank you for a job well done.

DRUG PROBLEM IN RIO ARRIBA COUNTY, NEW MEXICO

Mr. DOMENICI. Mr. President, I rise today to talk about the drug problem which is plaguing the northern part of my home state—a problem which has had particularly profound effects on the quality of life and the health of the citizens in an area known as Rio Arriba County, New Mexico.

Simply put, Rio Arriba County faces one of the most severe black tar heroin epidemics this nation has ever seen. In recent years, there have been 44 heroin overdose deaths in this small county—more per capita than any other area of the country. Last year, New Mexico led the nation in per capita heroin overdose deaths, and Rio Arriba County led New Mexico.

Just this weekend, one of the local papers printed a story about the black tar heroin epidemic in northern New Mexico, and the reporter interviewed several heroin addicts. Two of these addicts died of overdoses between the time they were interviewed and the time the story was printed. That is how acute the problem is.

Rio Arriba County is a rural community with close to 40,000 inhabitants. Many of those who reside in this small county have family who have lived there for several generations. Neighbors don't just know each other—they know each other's entire families and their family's history in the area.

This is a close-knit community, one which recognizes that it must band together to beat this problem. Families, political leaders, community institutions and public safety and heath experts must work together in cooperative fashion to rid this area of the scourge of heroin.

Earlier this year, I mentioned this problem to Attorney General Janet Reno, and she committed to help coordinate the federal response to the heroin epidemic in northern New Mexico.

After speaking with Attorney General Reno, I later convened a field hearing in Espanola, New Mexico in Rio Arriba County to begin to bring people together at the local, state and federal levels to see what could be done. The hearing was held under the auspices of the Commerce, State, Justice subcommittee of the Senate Appropriations Committee, chaired by Senator GREGG. I want to thank Senator GREGG for agreeing to the hearing, and for his commitment to providing the necessary federal resources to begin to address the problem.

At the field hearing, we heard from Laurie Robinson, Associate Attorney General for Justice Programs, who has since sent a technical assistance team to the area to meet with state and local officials, treatment providers, and community groups in order to begin to formulate a comprehensive plan to attack the problem. This technical assistance team returns to the county this week to continue its efforts, and I expect them to issue an action plan by mid-July.

This plan will include recommendations on how the county can best coordinate local drug treatment and intervention efforts, and take advantage of new federal resources made available in recent months.

I want to commend the Department of Justice, Attorney General Reno, and her partners in this effort—the National Institute on Drug Abuse (NIDA) and the Substance Abuse and Mental Health Services Administration (SAMHSA), as well as New Mexico's Department of Health and Human Services, which has worked closely with the federal team.

Their comprehensive effort will ensure that we don't simply throw money at this problem and hope that it goes away. I believe that the strategy they produce will have a lasting, positive impact on the substance abuse problem in Rio Arriba County.

The strategy will include new federal resources for prevention, treatment and law enforcement, and I want to outline federal efforts to date to combat this problem.

In addition to bringing in the Department of Justice team to coordinate federal resources, in April, I convinced the Senate to include $750,000 in the emergency supplemental appropriations bill to allow Rio Arriba, Santa Fe and San Juan counties to participate in the New Mexico High Intensity Drug Trafficking Area (HIDTA).

Expanding the New Mexico HIDTA will allow state and local law enforcement officials to enhance their efforts to rid northern New Mexico of drug traffickers, many of whom are Mexican nationals who bring the heroin to New Mexico through the crime corridor between the southwest border and Rio Arriba County.

Because a crime corridor exists in New Mexico, with the help of Senator GREGG, the Committee also included $5 million in this year's Commerce, State, Justice appropriations bill for a pilot project through the United States Attorney's office in New Mexico.

Much of the heroin brought into northern New Mexico comes up Interstate 10 from Mexico between Las Cruces and Albuquerque. This pilot project will allow the U.S. Attorney to undertake federal prosecutions of illegal immigration and drug trafficking along that corridor. It is patterned after a similar successful initiative, called Project Exile, which significantly reduced illegal gun smuggling and violent crime in the corridor between Camden, New Jersey and Philadelphia.

Solving this problem will take more than just increased law enforcement. It also is critically important that we give children healthy and safe alternatives to drugs and crime.

With Chairman GREGG's help, the Senate Appropriations Committee has provided $750,000 for an after-school program in Rio Arriba, and increased funding for the Boys' and Girls' Clubs nationwide. Northern New Mexico has long faced a true shortage of worthwhile crime and drug abuse prevention programs, particularly for children.

We need to provide kids with constructive outlets for their time and energy, so they do not become the next generation of addicts. I think that our efforts here recently are going to change that for the better.

Finally, let me talk a little bit about treatment, because that is the most difficult problem the county faces. Currently, there are 66 treatment beds in Rio Arriba County. Yet, all but six of them are reserved for alcoholics. There is no in-patient treatment for heroin addicted kids and no detox facility in Rio Arriba. So the county has a long way to go in dealing with the special health care needs of heroin addicts.

To assist with the efforts, I have requested $2 million from the budget of

the Department of Health and Human Services to help expand drug treatment and prevention services in the county. Also, the state of New Mexico has provided $500,000 for increased drug treatment in the area.

Successful treatment programs require more than a one-time infusion of federal or state funds. Communities, state and local governments and treatment providers must work together to keep them viable and operational once facilities are established. Federal dollars can help, but the bulk of the effort must come at the state and local level.

A big part of what the technical assistance team I have sent to Rio Arriba County is doing is figuring out how to coordinate federal, state and local treatment resources, and how to make these treatment options available for many years to come. This is a critical component in the strategy we have begun to develop.

As I see it, the federal response to the drug problem in Rio Arriba County has been swift and comprehensive. We have done much more in a short amount of time than simply throw money at the problem. We have begun to build upon the three main components of any successful anti-drug strategy: law enforcement, treatment and prevention, and the Department of Justice and other federal agencies have begun the process of working with the local community to improve in all three areas in Rio Arriba County.

It is my hope that in a few years, after our efforts and ideas have been implemented, we will look to northern New Mexico as an example of how small rural communities can overcome big drug problems. We have a long way to go, but I look forward to continuing my efforts to defeat the heroin problem in Rio Arriba County and help this proud community get it back on its feet.

Thank you, Mr. President.

TAIWAN'S HUMANITARIAN AID TO KOSOVO

Mr. JOHNSON. Mr. President, I would like to recognize the important contribution Taiwan has made to the international effort to provide humanitarian assistance to the refugees of Kosovo. Taiwan recently announced that it will grant $300 million in an aid package to the Kosovars. The aid package will include emergency support for food, shelters, medical care, and education for Kosovar refugees who were driven from their homes and forced to live in exile. In addition, I am pleased that Taiwan has offered short-term accommodations for Kosovar refugees in Taiwan along with technical training in Taiwan to help the refugees be better equipped for the restoration of their homeland upon their return.

Slobadan Milosevic initiated a brutal and calculated effort to rid Kosovo of ethnic Albanians and fracture Europe. The United States and its NATO allies moved quickly and decisively to stop the massacres of innocent women and children inside Kosovo, and the international community joined the effort to provide relief to the hundreds of thousands of refugees who fled homes burned by Yugoslav police.

Over two months of NATO bombings resulted in the withdrawal of all Yugoslav military and police from Kosovo and Milosevic's acceptance of a NATO-led peacekeeping force to secure Kosovo for the refugees return. The rebuilding and recovery efforts that are now beginning in Kosovo will take many years and many resources. Taiwan has contributed significant financial and technical resources to this effort. However, more importantly, Taiwan's generous actions should give comfort to the people of Kosovo that the world's leaders will help them through this difficult time.

CHALLENGE OF THE BALKANS

Mr. MCCAIN. Mr. President, as we have learned repeatedly over the last three months, few things seem to go as planned in the Balkans. In fact, I think the warning ''expect the unexpected'' is quickly becoming the first rule of statecraft in the post-cold-war world.

The provocative and disturbing occupation of the airport in Pristina by 200 Russian paratroopers has surely complicated our peacekeeping mission in Kosovo. Even more importantly, it exemplifies the huge challenge confronting us as we seek to build a relationship with a former superpower adversary that works to out mutual benefit and that of the world's.

I do not know if this action is evidence of a growing breach between Russia's political and military leadership or if Russia's political leaders sanctioned it. I don't pretend to be a scholar of Russian politics. I do know, however, that Russia's continued refusal to accept NATO's command over the entire peacekeeping effort in Kosovo, whether the Russian government or some independent-minded Russian generals issue that refusal, challenges the viability of the fragile peace we are committing 50,000 NATO troops to enforce. It is a challenge we must overcome immediately, with steady nerve and firm resolve.

Even though, NATO obviously has the power and authority to work its will in Pristina, overcoming the challenge should not require us to forcibly evict the Russians from the airport. But neither does it require us to pretend that the challenge is so insignificant that it doesn't merit our notice. It is a problem, although not yet a disaster, and it requires our swift and sure-footed response to resolve it as quickly as possible.

We must take the necessary steps to prevent the reinforcement of those troops. But, more importantly, we must make abundantly clear to Moscow that we consider this action to be evidence that Russia cannot yet be trusted as good faith partners in preserving European stability. It even casts doubt on their efforts to convince Mr. Milosevic to accept NATO's terms for a settlement, raising the suspicion that there were hidden commitments to secure a de facto partition of Kosovo.

Until those suspicions can be allayed—which would require, of course, Russian troops to accede to NATO's authority at the airport—progress in constructing a new and mutually beneficial relationship between the United States and its allies and Russia will suffer. The coming G–7 meeting in Germany, which was intended to consider efforts to assist the collapsed Russian economy, must now result in a clear, unequivocal statement that no such assistance will be forthcoming while Russian leaders either tolerate or are unable to stop attempts by their forces to undermine our efforts in Kosovo.

Moreover, we should exact some specific and public assurance from the putative leader of Russia, Boris Yeltsin—since the word of his ministers is no longer credible—that Russia will play either a constructive role or no further role in Kosovo. A constructive role will entail, of course, Russia's acquiescence in the unified NATO command of the entire operation.

There must be no Russian sector in Kosovo even if we select some other euphemism to describe it because most Kosovars believe, quite understandably, it is a pseudonym for the partition of Kosovo. Few if any ethnic Albanians will return unarmed to an area where their security is the responsibility of troops whose loyalties were demonstratively pledged to the Serb persecutors.

The United States recognizes the importance of achieving stable, mutually beneficial relations with Russia. We expect Russia to recognize that its best interests lie in friendship with NATO and not in old hostilities that stretch back to the cold war and beyond. The Russian military should be capable of recognizing that its interests are best served by better relations as well. An army that cannot adequately feed and fuel itself, or that is unable to offer a minimum standard of life to its soldiers should see the error in nursing old enmities at the expense of progress toward the common goal of a more secure world.

The United States expects nothing more of Russia than that it acts in its own best interests, for its best interests are compatible with the cause for peace and justice in Kosovo, and everywhere else for that matter.

THE SOCIAL SECURITY LOCK BOX

Mr. GRASSLEY. Mr. President, I rise today to express my support for the Social Security ''lock box.'' This legislation is vital to the future of the Social Security program. I commend my colleagues, Senators DOMENICI, ABRAHAM, and ASHCROFT on their leadership and dedication to the fiscal year 2000 budget resolution which establishes goals

for the next ten years by setting aside projected Social Security surpluses of $1.8 trillion.

The unified budget system created during President Lyndon Johnson's administration allows the government to account for non-Social Security programs using Social Security funds. For years it masked the size of the federal deficit. When it comes to Social Security, this accounting method has fanned unfavorable public sentiment. According to a survey conducted by the National Public Radio, the Kaiser Foundation, and the Kennedy School of Government, Americans believe that the Social Security trust fund is somehow being misused. Asked why the system is in trouble, more people (65%) selected ''money in the Social Security trust fund is being spent on programs other than Social Security'' than any other reason. It's time to change the system. The lock box legislation would help restore the public's trust in the system and ensure Congress and the President don't squander the surpluses accumulating in the Social Security trust fund.

The surplus could be very tempting to the President and Congress to spend. The Social Security ''lock box'' would institute a 60-vote budget point of order in the Senate which would limit Congress's ability to pass a budget resolution which uses a portion of the Social Security trust fund for non-Social Security purposes. In addition, this legislation would institute a limit on the debt held by the public.

Passing this legislation demonstrates Congress's ability and discipline to save money. Taxpayers and beneficiaries believe ''reform'' will translate into higher taxes and lower benefits. One way to quell public concern is by starting out on the right foot. We can protect the Social Security trust fund from being drained for non-Social Security purposes. As Members of Congress, we owe this to the future generations of America. As Senators, we should understand the dynamics of saving the Social Security trust funds because we all have constituents in our home states who have doubts about Social Security money being there for them when they retire. That is why this legislation is so important: it will help restore the confidence of the American people in their government. Locking away the Social Security trust fund is a key way to secure the public's peace of mind. Wage earners who contribute a sizable percentage of their paycheck every week to the public retirement system have grown leery about the Federal Government using their Social Security taxes for other purposes.

President Clinton, pledged in his 1998 State of the Union Address, to ''save every cent of the Social Security Surplus.'' Some Members of Congress including myself along with Senators GREGG, BREAUX, and KERREY have put forth proposals to save Social Security. However, if Congress and the White House reach a Social Security stalemate this year, the lock box legislation offers a bonus economic benefit. It would ensure the public debt is reduced. That's because the Social Security lock box effectively would limit the amount of public debt, which would prevent Social Security revenue from being used for other programs.

Some have expressed concern that passing this legislation would stifle Congress's ability to address emergency situations such as economic recession or war. Those situations were anticipated in the development of the lock box legislation. This bill would allow the flexibility necessary to address such situations by suspending the public debt limit in specific instances such as recession or a declaration of war.

We are at a point in time where talk is cheap and execution is everything. At one time or another we all learned the steps of first aid and the first step that is taken is to stop the bleeding. We need to stop the bleeding of the trust fund dollars from the Social Security trust fund.

I ask my colleagues to demonstrate the courage necessary to pass this bill and preserve the future of our great Nation.

I yield the floor.

SECTION 201 DECISIONS

Mr. BURNS. Mr. President I rise today to discuss my grave concern regarding the Section 201 petition brought forward by America's domestic lamb industry. This case has been sitting on President Clinton's desk for more than 2 months. He has had more than ample time to make a decision. Furthermore, the decision was slated for June 5. For 10 days, America's sheep producers have been waiting, wondering what is going to happen to their livelihood.

On February 9, 1999, the International Trade Commission voted unanimously that lamb imports are a threat to our industry. On March 26, the sheep industry scored another victory with the decision by the International Trade Commission to support 4 years of market stability. Several remedies have been offered, including tariff rate quotas and ad-valorem tariffs. Now a decision by President Clinton to approve, deny, or modify those remedies has been expected since June 5.

This administration has virtually ignored the request by America's sheep producers to solve the issue of excessive imports. While these producers are suffering, the President continues to deal with any and all other issues but this important agriculture case. While I understand that Kosovo and other world issues require much time and consideration, domestic policy cannot stand still during international situations.

The agricultural producers of this country that provide food and fiber for the rest of the Nation, warrant more time and attention than this administration has paid them. I feel as though the crisis facing the sheep producers of this country is receiving about the same consideration from this administration as agriculture received 5 months ago in the State of the Union Address. Agriculture received a mere thirty seconds during that address and is receiving even less time in this important case.

The domestic lamb industry has every reason to believe their market has been substantially undercut by these countries. Imports now make up nearly one-third of the domestic market, and comparisons of imported and domestic lamb meat have found that imports undercut domestic products nearly 80 percent of the time. Between 1993 and 1997 imports increased 47 percent. The problems of imports are very real and have had a substantial impact on sheep producers.

Furthermore, the domestic industry has followed the legal process for trade action that is available to all industries under our trade agreements. The unanimous ruling of the ITC during the injury phase of this 201 case, followed by the entire Commission's recommendation to impose trade relief, clearly shows U.S. sheep producers have a viable case.

I urge my fellow colleagues to join me in urging the president to make an extremely timely decision in support of the section 201 petition and the recommendations made by the domestic sheep industry for strong and effective trade relief.

Mr. JEFFORDS. Mr. President, the time has come. Our friends with disabilities have waited patiently. Our bipartisan coalition has remained united. The last obstacles have been resolved. Assurances have been given. I am referring to our pending consideration of the landmark legislation, S.331, the Work Incentives Improvement Act of 1999.

When I came to Congress in January 1975, one of my legislative priorities was to provide access to the American dream for individuals with disabilities. It was not an easy task. I learned quickly that providing access for Americans with disabilities was complicated.

It involved providing access to education, it involved removing physical barriers, and it involved ensuring access to rehabilitation, job training, and job placement assistance.

It required obtaining access to assistive technology and health care. Most importantly, access to the American dream for people with disabilities meant gaining the opportunity to choose and to participate in the full range of community activities. Moreover, it involved making sure that the Federal Government, along with other entities, be made to comply with laws affecting access for people with disabilities. We have made tremendous progress in the last 24 years.

The Individuals with Disabilities Education Act, the Rehabilitation Act, the Americans with Disabilities Act, and the Assistive Technology Act have changed, and will continue to change lives. Children with disabilities are being educated with their peers. No agency or individual, including the Federal Government, can discriminate against individuals on the basis of disability in employment, transportation, public accommodations, public services, or telecommunications.

Job training and placement opportunities for individuals with disabilities are ever expanding because of the reforms we achieved in the Work Force Investment Act of 1998 and because of low unemployment rates. I am proud of these accomplishments.

Today we will address the biggest remaining barrier to the American dream for individuals with disabilities—access to health care if they work.

I began work on the Work Incentives Improvement Act more than 2 years ago. Since then, I have learned a great deal. I suspect the same holds true for the 77 other co-sponsors of this bill. People with disabilities want to work, and will work, if they are given access to health care. This bill does just that—it gives workers with disabilities access to appropriate health care—health care that is not readily available or affordable from the private sector.

People with disabilities want to work, and will work, given access to job training and job placement assistance. This bill does just that—it gives individuals with disabilities training and help securing a job.

The Work Incentives Improvement Act gives people with disabilities the power to control their own destiny, the power to pay taxes and return the investment that society has made in them, and most of all the power to go to work.

First, I must thank my bipartisan co-sponsors Senators KENNEDY, ROTH, and MOYNIHAN the original co-sponsors of this bill who made a commitment many months ago to work together to create a sound piece of legislation to address this real problem for millions of Americans with disabilities. Such commitment represents the best of what the Senate can accomplish when sound policy is placed above partisanship.

I also thank the additional, original 35 co-sponsors of this bill and the subsequent 45 co-sponsors who represent a total of over three quarters of this body, perhaps a Senate record on health care legislation.

Over the last two weeks, the Majority Leader has been the driving force who urged us to work out policy differences that were delaying Floor consideration. We did so through good faith efforts that broadened support for the bill and reduced its overall modest cost.

In particular, I want to recognize Senators NICKLES, BUNNING, and GRAMM for their willingness to reach consensus with us on policy without compromising the integrity of the legislation, thus, allowing S. 331 to move forward.

I especially thank the over two hundred national organizations that offered time, energy, and ideas to create and support a bill that will improve the quality of life for millions of Americans with disabilities who want to work.

One at a time, we each have come to understand the importance of health care and a job to individuals with disabilities. Sometimes the power of common sense and the voices of reason transcend politics and help us to forge new policy that will make America a better place for all of its citizens. The Work Incentives Improvement Act is the right policy at the right time, and we all know it.

Ms. COLLINS. Mr. President, I am pleased to be an original cosponsor of S. 331, the Work Incentives Improvement Act of 1999.

This historic initiative, which Republicans have been working on for many years now, has strong bipartisan support and will help tear down the barriers that prevent disabled Americans who want to work from reaching their full potential and achieving economic independence.

Approximately 8 million American adults receive more than $73 billion a year in cash benefits under the Supplemental Security Income and the Social Security Disability programs, making these disability programs the fourth largest entitlement expenditure in the Federal budget. In Maine, there are close to 55,000 people receiving more than $335 million each year in cash disability benefits under these two programs. If only 1 percent, or 75,000, of these disabled Americans were to enter the workplace, Federal savings in cash benefits would total $3.5 billion over the worklife of these individuals.

While surveys show that the overwhelming majority of adults with disabilities want to work, fewer than one half of 1 percent of them actually do. The reason is very simple: The current law contains disincentives that prevent these people with disabilities from going into the workforce. I know that the Presiding Officer has been working on this issue for several years and shares our concern.

Removing the barriers that prevent Americans with disabilities from working will not only assist these individuals in their pursuit of self-sufficiency, but it will also contribute to preserving the Social Security trust fund.

Advances in medicine and technology, coupled with civil rights laws, have made it possible for more and more people with physical and mental disabilities to enter the workforce. These are people who genuinely want to work. They have the skills and the talents necessary to contribute greatly to the American economy, but they currently face a Catch-22. If they leave the disability rolls for a job, they risk losing essential Medicare and Medicaid benefits that made it possible for them to overcome the obstacles that prevented them from entering or reentering the workforce in the first place. Moreover, many of these individuals' lives depend on the prescription drugs, the technology, the personal assistant services and the medical care that they receive.

Let me put a human face on this problem which is facing too many Americans with disabilities. In Bangor, ME, I know a young man in his 20s who unfortunately suffers from a severe mental illness. The good news is that if he takes his medicine, which is very expensive and is now covered by Medicaid, he can hold down a part-time job. He very much enjoys working. He enjoys the skills he is learning. He enjoys the companionship. He enjoys the sense of pride he feels when he works. Unfortunately, if he goes to work, he loses the very Medicaid coverage that provides the essential prescription drug that he needs to enable him to work. He should not face that kind of dilemma.

The truth is that no one should have to make the choice between a job and essential health care. The Work Incentives Improvement Act of 1999 will create and fund new options for States, to encourage them to allow people with disabilities who enter into the workforce to buy into the Medicare program and the Medicaid program so that they can continue to receive the essential prescription drugs they need which enable them to work, and the personal assistant services and the medical care upon which they depend. It will also allow workers who leave the Social Security Disability Insurance program to extend their Medicare coverage for 10 years.

This is tremendously important since many people returning to work after having been on SSDI either work part-time and, therefore, are not eligible for most employer-based insurance, or they work in jobs that simply do not offer health insurance. Allowing these disabled Americans to maintain their Medicare coverage, and to maintain their Medicaid coverage in some cases, will serve as a tremendous incentive for them to return to or to enter the workforce.

Other provisions of this legislation incorporate a more user-friendly approach in programs, providing job training and placement assistance to individuals with disabilities who want to and are able to work.

Our legislation gives disabled SSI and SSDI beneficiaries greater consumer choice by creating essentially a ticket that enables them to choose whether they want to go to a public or a private provider of vocational rehabilitation services. The bill also provides grants to States and organizations to help connect people with disabilities with the appropriate services, and it funds demonstration projects

and studies to better understand and identify the policies that will encourage and enable work.

Mr. President, this legislation is an investment in human potential that promises tremendous returns. By ensuring that Americans with disabilities have access to affordable health insurance, we are removing a major barrier, a significant disincentive that too often keeps them out of the workplace.

The Work Incentives Improvement Act of 1999 will both encourage and enable Americans with disabilities to be full participants in our Nation's workforce and growing economy and, equally important, it will allow them to reach their full potential. It deserves our strong support and the President's signature. I am very proud to be an original cosponsor of this landmark legislation.

Mr. HARKIN. Mr. President, I rise in support of the Work Incentives Improvement Act of 1999. I was an original cosponsor of the Work Incentives bill when we introduced it last year, and again this year, and was at the White House when the President endorsed the bill.

Almost nine years ago, the Americans With Disabilities Act became law. On that day, we told Americans with disabilities that the door to equal opportunity was finally open.

And the ADA has opened the doors of opportunity—plenty of them. Americans with disabilities now expect to be treated as full citizens, with all the rights and responsibilities that entails. And they are participating in American life like never before in our Nation's history.

But we have not been as successful in employment. Far too many people with disabilities who want to work are unemployed. More than eight million people between 18 and 64 are on SSI and SSDI—and less than one-half of one percent of them return to work each year.

Clearly, there are barriers to be torn down.

Let me tell you the story of a young woman from Iowa named Phoebe Ball. Phoebe just graduated from the University of Iowa and she was shocked when she found that if she took an entry level job paying $18,000, she would suffer a huge loss—her health insurance.

Phoebe wrote an article for an Iowa City newspaper. Here is what she said:

I want off SSI desperately . . . I want to work. I want to know that I have earned the money I have . . . I don't feel good about the money the government sends me each month. I don't feel entitled to it because I know what I am capable of.

My parents and my society made a promise to me. They promised me that I can live with this disability, and I can. . . . What is limiting me right now is not this wheelchair, and it's not this limb that's missing. It's a system that says if I can work at all, then I'm undeserving of any assistance, I'm undeserving of the basic medical care that I need to stay alive.

. . . What is needed is a government that understands its responsibility to its citizens . . . then we'll see what we are capable of, then we will be working and proving the worth of the ADA.

Mr. President, the Work Incentives Improvement Act is a well-crafted, comprehensive bill that would be the answer to Phoebe Ball's dilemma.

It provides health care and employment preparation and placement services to individuals to reduce dependency on cash assistance;

It creates new options for States to allow people with disabilities to purchase Medicaid coverage;

It lengthens the current period of extended eligibility for Medicare coverage for working disabled individuals; and

It establishes a return to work ''ticket'' program that will allow people with disabilities to secure the best possible services they can find to get and keep jobs.

If only 1 percent—or 75,000—of the 7.5 million people with disabilities, like Phoebe, who are now on benefits were to become employed, Federal savings would total $3.5 billion over the work life of the beneficiaries. That not only makes economic sense, it also contributes to preserving the Social Security Trust fund.

Mr. President, the disability community and members from both sides of the aisle here in the Senate have wholeheartedly endorsed this bill. The Work Incentives Improvement Act has 78 cosponsors. 78! Rarely do we see in this chamber such broad bipartisan support.

The Work Incentives Act will open the door to full participation by people with disabilities in our workplaces, our economy, and our American Dream, and I urge all my colleagues to support it.

Mr. BUNNING. Mr. President, I rise to speak in support of S. 331, the Work Incentives Improvement Act of 1999.

This is the most far-reaching Social Security disability bill to come before the Senate in a generation, and it's going to give thousands of men and women who are trapped in the disability program the tools they need to return to work.

While it's not a perfect bill, it's still a significant step forward.

Right now there are over 4½ million Americans on disability. Four and a half million, Mr. President. And of this group, less than one-half of 1 percent will return to work.

Many of these folks have permanent conditions and need assistance. But, many of these people want to return to work, and can return to work. For them, the disability program has become a black hole that swallows everyone who falls in. With proper training and rehabilitation, many of these people could work. But the disability system is not working for them.

Because of problems with the current program, they face too many hurdles, too many disincentives, in trying to return to the workforce. That is a tragedy.

Some of us have been fighting for a long time to improve the Social Security Disability Program. When I chaired the House Social Security subcommittee, we held numerous hearings on disability.

And we learned there are indeed many, many disabled who want to return to work, and can work. But they're afraid to try. They're afraid to try because returning to work often means losing their health care coverage.

Many other disabled workers could return to their jobs if they had the proper training. But because of backlogs and problems in the current vocational rehabilitation system, they have not been able to get the assistance they need.

The bill before us today will change things for the better. It removes barriers that discourage the disabled from returning to work. It helps harness the power of the private sector and competition to help provide training for the disabled. And it extends basic health care coverage to help them make the difficult transition back to work.

It represents a fundamental, revolutionary change for the disabled community.

As an added benefit, this legislation will have money for Social Security—big money. For every 1% of the total number of disabled who return to work, we save $3 billion for Social Security. The legislation before the Senate today has the potential to literally save billions and billions for Social Security.

Mr. President, last year, the House did pass my disability bill by a vote of 410–1. Unfortunately, the bill was tied up in the Senate by some shenanigans and it died. That was a tremendous disappointment to me, and to be honest, I didn't think we would be back to talking about a disability bill in the Senate for a long, long time.

But we are back here today, and I am proud that the disability provisions in the bill before us largely borrows from my old legislation. The bill's sponsors did make some further changes to their bill at my request that I think improves it, and I appreciate that.

But we still have a way to go. And there are several conditions that have to be met for me to support any conference report.

The bill has to be fully paid for with other spending reductions. Under the unanimous consent agreement, the conference report has to be fully offset, and contain no new taxes. I intend to stick by that agreement.

I also want to see changes that the sponsors negotiated with me on the ticket maintained in the final conference report. I appreciate their working with me, and I think our efforts have produced a better bill. We shouldn't move backward in the conference report.

This is a good bill, but it is not perfect. And we still have to hear from the House. But we are making progress. I'm eager to move forward.

I urge support for the bill.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

Mr. KOHL. Mr. President, I am aware that an amendment or amendments relating to dairy policy may be offered during full committee mark-up on the fiscal year 2000 appropriations bill for Agriculture, Rural Development and Related agencies. I serve as ranking member for the Agriculture, Rural Development and Related Agencies Subcommittee and I am proud of the work I have done with Senator COCHRAN, Chairman of the Subcommittee, in preparing the bill for fiscal year 2000 and having it approved unanimously by the entire Subcommittee. I am, therefore, very distressed to learn of possible amendments that are authorizing in nature, and that would result in setting dairy policy with disastrous consequences for my State and region.

Due to my very strong commitment to keep the fiscal year 2000 appropriations bill clean of amendments of the nature suggested, I am prepared to take whatever steps possible to prevent inclusion of these amendments during consideration of the bill by the Senate Appropriations Committee. I strongly believe that the issues surrounding these amendments are of such an important nature that deliberation by the full Senate is imperative. If proponents of these amendments wish to bring them to the floor to offer and debate them, I welcome the opportunity for the discussion. However, I will do all I can to ensure that these matters are not decided by the smaller number of Senators that comprise the Appropriations Committee.

In the event an amendment or amendments relating to dairy policy, such as one establishing or extending interstate compacts, are offered for adoption by the full Appropriations Committee, I am prepared to offer, and will offer, a number of second degree amendments to eliminate the harmful policy that amendment proponents apparently seek to impose on farmers and consumers. Also, in an attempt to keep this sort of anti-consumer, anti-farmer amendment from ending up on the bill, I am prepared to offer, either as first or second degree amendments, a number of other amendments—some related to the bill and some not. If the committee chooses to enter into controversial debates that belong in authorizing committees, I too have several non-Appropriations issues that I would like considered.

I do not relish holding up the work of my Committee, and I will not if these sort of dairy amendments are not offered. But I feel it is only fair to my fellow Committee members and to the Senate to let them know how very seriously I take attempts to harm the dairy industry in the State of Wisconsin.

The amendments I may offer that are relevant to the Agriculture Appropriations bill, include, but are not limited to:

An amendment to provide additional funds for the President's Food Safety Initiative.

An amendment to provide additional funds for the WIC program.

An amendment to provide additional funds for the President's Human Nutrition Initiative.

An amendment to provide additional funds for the Wetlands Reserve Program.

An amendment to provide additional funds for the Conservation Farm Option Program.

An amendment to provide additional funds for the TEFAP program.

An amendment to provide additional funds relating to the Food Quality Protection Act.

An amendment to provide additional funds for the National Research Initiative.

An amendment to provide additional funds for the NET program.

An amendment to provide additional funds for the Food and Drug Administration.

An amendment to provide additional funds for the EQIP program.

An amendment to provide additional funds for the Fund for Rural America.

An amendment to express the sense of the Senate on the history of dairy policy.

An amendment to express the sense of the Senate on diary compacts and their harmful effects on consumers.

An amendment to express the sense of the Senate on dairy compacts and their fundamental conflict with the principles of free trade.

An amendment to express the sense of the Senate on dairy compacts and their harmful effect on the Midwestern dairy industry.

An amendment to express a sense of the Senate on the economic policy problems with dairy compacts.

In addition to these, I have at least 40 other amendments funding changes to the bill that will require votes by the full Committee.

I also have many amendments not relevant to the bill and more in the nature of authorizing legislation. However, as I said before, if the Committee is going to consider dairy legislation of an authorizing nature—legislation with a very real impact on my State—I would insist on also considering other authorizing issues of importance to my constituents. These would include:

The Patient Abuse Prevention Act: This amendment is based on my bill that establishes a national registry of abusive long-term care workers, and requires nursing homes, home health agencies and hospices to check the registry and do criminal background checks on potential employees before hiring them.

Folic Acid Promotion and Birth Defects Prevention Act: This amendment is based on a bill I will be introducing with BOND and ABRAHAM next week. It would authorize $20 million per year to provide education and training to health care providers and the public on the need for women to take folic acid to reduce birth defects.

Sense of the Senate on the nursing home bill: This amendment is based on an amendment that passed two years ago on the Budget Resolution. It is a Sense of the Senate that Congress should create a national registry system so long-term care facilities may conduct background checks on potential employees.

Organ distribution amendment: This amendment would nullify the HHS proposed rule that changes the way organs are distributed across the nation.

Class size fix: This would amend the Class Size Reduction program to ensure that smaller school districts have access to their class size funds without having to form a consortium with other districts.

National Family Caregiver Support program: This would provide support services, including respite services, to persons caring for a disabled or elderly relative.

Sodas in Schools: This is based on a bill introduced by LEAHY, JEFFORDS, KOHL, and FEINGOLD last month) This would prohibit the giveaways of free sodas during the school lunch program.

The Child Care Infrastructure Act: This amendment would establish a tax credit for employers who provided child care benefit to their employees.

Child Support Pass Through: This amendment would reform the child support collection system to provide more income support for low-income families.

Income Averaging for Farmers: This, and another amendment creating Farmer IRAs would establish more fairness for farmers.

Several foreign policy Sense of the Senates including: A sense of the Senate resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus; a sense of the Senate resolution condemning Palestinian efforts to revive the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian self-determination on the basis of the original Palestine partition plan; a sense of the Senate regarding a peaceful process of self-determination in East Timor, and for other purposes.

Apostle Islands: An amendment to direct the Secretary of the Interior to study whether the Apostle Islands National Lakeshore should be protected as a wilderness area.

Zachary Baumel: An amendment to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

Women's Business center: A bill to amend the Small Business Act with respect to the women's business center program.

Arctic National Wildlife Refuge: A bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

Military Reservists: An amendment to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small business, and for other purposes.

Menominee: An amendment to provide for the settlement of claims of the Menominee Indian Tribe of Wisconsin.

33RD ANNIVERSARY OF MIRANDA VERSUS ARIZONA

Mr. THURMOND. Mr. President, 33 years ago this week, the Supreme Court issued possibly its most famous and far-reaching criminal law decision of the twentieth century: Miranda v. Arizona. In response, the Congress enacted a law, codified at 18 U.S.C. section 3501, to govern the admissibility of voluntary confessions in Federal court. The Criminal Justice Oversight Subcommittee, which I chair, recently held a hearing to discuss the Clinton Justice Department's refusal to use this Federal statute to help Federal prosecutors in their work to fight crime.

Issued in 1966, the Miranda decision imposed a code-like set of interrogation rules on police officers. Essentially, the Court held that before a confession can be admitted against a defendant, regardless of whether the confession was voluntary, the police must read the defendant the now familiar Miranda warnings, and the defendant must affirmatively waive his rights. We will never know how many crimes have gone unsolved or unpunished because of Miranda.

The Miranda decision acknowledged that the warnings were not themselves constitutionally protected rights but only procedural safeguards designed to protect the Fifth Amendment right against self-incrimination. Subsequent Supreme Court opinions have repeatedly reaffirmed this conclusion. Further, the Miranda court expressly invited Congress and the States to develop legislative solutions to the problem of involuntary confessions.

In response to the Court's invitation, the Congress held extensive hearings on this issue as part of Federal criminal law reform. A bipartisan Congress with my participation and that of many others on both sides of the aisle in 1968 passed an omnibus crime bill that included a provision that eventually became law as section 3501. That statute, of which I was an original cosponsor, provides that ''In any criminal prosecution brought by the United States . . . a confession . . . shall be admissible in evidence if it is voluntarily given.'' The statute goes on to list five nonexclusive factors that a judge may consider in determining whether a confession is voluntary and, hence, admissible. One of those factors is whether the Miranda warnings were given. Thus, the statute continues to provide police with an incentive to deliver the Miranda warnings.

More than thirty years after the original hearings on § 3501, the Senate Judiciary Committee's Subcommittee on Criminal Justice Oversight, under my leadership, conducted a hearing to examine the statute's enforcement.

The history of the statute begins with the Johnson Administration. Although President Johnson signed § 3501 into law, his administration viewed the statute unfavorably and refused to enforce it. Then, in 1969, the Nixon Justice Department issued an important memorandum setting forth the Department's official policy toward section 3501. According to that policy, ''Congress has reasonably directed that an inflexible exclusionary rule be applied only where the constitutional privilege itself has been violated.'' The memorandum also concluded that ''the determination of Congress that an inflexible exclusionary rule is unnecessary is within its constitutional power.''

In 1975, the Department succeeded in enforcing the statute when the 10th Circuit in United States v. Crocker affirmed a district court's decision to apply § 3501 rather than Miranda and upheld the constitutionality of the statute.

The next significant chapter in the history of § 3501 occurred during the Reagan Administration. Judge Stephen Markman, who was then Assistant Attorney General in charge of the Justice Department's Office of Legal Policy, also testified before our Subcommittee. In response to an assignment from Attorney General Meese, Judge Markman's team issued a comprehensive report on the law of pre-trial interrogation that concluded that section 3501 represented a valid, constitutional response by the Congress to the Miranda decision. Later, as Judge Markman testified, the Reagan Justice Department continued the litigation effort to apply section 3501.

Judge Markman also testified that while he was U.S. Attorney in the Bush Administration, he and other U.S. Attorneys attempted to apply the statute, although appellate cases did not develop. Certainly, the Bush Justice Department never sought to undermine the statute's enforcement.

During the Clinton Administration, this Committee repeatedly has encouraged the Justice Department to enforce the statute. During an oversight hearing in 1997, Attorney General Reno indicated to the Committee that the Department would enforce it in an appropriate case, as did Deputy Attorney General Holder during his nomination hearing the same year. However, when such a case clearly arose in United States v. Dickerson, the Administration refused.

In that case, Charles Dickerson was suspected of committing a series of armed bank robberies in Virginia and Maryland. During questioning, he voluntarily confessed his crimes to the authorities and implicated another armed bank robber, but the Miranda warnings were not read to him beforehand. The U.S. Attorney's office in Alexandria urged the trial court to admit the confession under section 3501, but the Justice Department refused to permit the U.S. Attorney to raise it on appeal. It was only the intervention of third parties in an amicus brief of Professor Cassell and the Washington Legal Foundation, that the issue was presented to the Fourth Circuit for its consideration.

The Fourth Circuit ruled solidly in favor of § 3501's constitutionality, holding that this statute, not the Miranda decision, governs the admissibility of confessions in Federal court. The court criticized the Justice Department for its failure to enforce the statute, saying that the Department's prohibition of the U.S. Attorney from arguing section 3501 was an elevation of politics over law.

The administration's actions in the Dickerson case are part of a larger pattern by which the Clinton Justice Department has blocked opportunities for career prosecutors to raise section 3501. The Department has even gone so far as to order career Federal prosecutors to withdraw already filed briefs that contained arguments in favor of section 3501. The Supreme Court in Davis v. United States expressly made note of the Justice Department's decision not to rely on the statute in a 1994 case where it was clearly relevant. In a concurring opinion in that same case, Justice Scalia wrote that ''[t]he United States' repeated refusal to invoke § 3501 . . . may have produced—during an era of intense national concern about the problem of run-away crime—the acquittal and the non-prosecution of many dangerous felons. There is no excuse for this.''

The Executive Branch has a duty under Article II, Section 3, of the Constitution to ''take care that the laws be faithfully executed.'' Section 3501 is a law like any other. In Davis, Justice Scalia also questioned whether the refusal to invoke the statute abrogated this duty.

Our hearing also demonstrated the strong level of support that exists for the Justice Department to enforce section 3501, especially in the law enforcement community. I have received supportive letters in this regard from the Fraternal Order of Police, whose National President testified at our hearing, as well as from the National Association of Police Organizations, the Federal Law Enforcement Officers Association, the Major Cities Chiefs of Police, and others. Former Attorney General Ed Meese also expressed his support for our efforts.

If section 3501 is upheld by the Supreme Court, this will encourage the states to enact their own versions of the law in this area. Arizona already has a statute almost identical to § 3501, and the Maricopa County Attorney in Phoenix, whose predecessor prosecuted Miranda, testified at our hearing that he and others could enforce their statute in Arizona if the Supreme Court upholds section 3501.

The Justice Department will not say what position it will take if the

Dickerson case is considered by the Supreme Court. Unfortunately, they refused my invitation to testify at the hearing on section 3501. I recognize the Department's reluctance to discuss specifics about pending cases, but this is no excuse for its failure to discuss in person its refusal to explain its general treatment of the law governing voluntary confessions. Even the dissenting judge in Dickerson recognized that the Congress could invoke its oversight authority and investigate why the law is being ignored. As he stated, the ''Congress . . . may legitimately investigate why the executive has ignored § 3501 and what the consequences are.''

In my view, the Administration clearly has a duty to defend § 3501 before the Supreme Court and should be enforcing it in the lower Federal courts. The Justice Department has a long-standing policy that it has a duty to defend a duly enacted Act of Congress whenever a reasonable argument can be made in support of its constitutionality. Thus far, all Federal courts that have directly considered § 3501's constitutionality have upheld it. Accordingly, reasonable arguments in defense of the statute clearly exist and have been accepted by the courts—most recently by the Fourth Circuit in Dickerson.

Indeed, before the Dickerson case, the Fourth Circuit in United States v. Leong expressly rejected the Justice Department's argument that it was not free to press § 3501 in the lower Federal courts unless and until the Supreme Court overrules Miranda. In concluding that the Government was ''mistaken'' in this regard, the Leong court stated that ''[t]he question of whether Miranda establishes a rule of constitutional dimension, and thus whether Congress acted within its authority in enacting § 3501, is easily within the compass of the authority of lower federal courts.''

Our subcommittee inquiry into section 3501 is ongoing. America does not need its Justice Department making arguments on behalf of criminals. On this the 33rd anniversary of Miranda v. Arizona, it is appropriate to note the Fourth Circuit's statement in Dickerson that ''no longer will criminals who have voluntarily confessed their crimes be released on mere technicalities.'' I hope the Clinton Justice Department will help make this promise a reality.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a withdrawal which was referred to the Committee on Finance.

(The withdrawal received today is printed at the end of the Senate proceedings.)

REPORT OF THE COMMODITY CREDIT CORPORATION FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 37

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry.

To the Congress of the United States:

In accordance with the provisions of section 13, Public Law 806, 80th Congress (15 U.S.C. 714k), I transmit herewith the report of the Commodity Credit Corporation for the fiscal year ending September 30, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 15, 1999.*

REPORT RELATIVE TO THE EXCHANGE STABILIZATION FUND—MESSAGE FROM THE PRESIDENT—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; referred jointly, pursuant to 31 United States Code 5302, to the Committee on Appropriations, to the Committee on Banking, Housing, and Urban Affairs, and to the Committee on Foreign Relations.

To the Congress of the United States:

On November 9, 1998, I approved the use of the Exchange Stabilization Fund (ESF) to provide up to $5 billion for the U.S. part of a multilateral guarantee of a credit facility for up to $13.28 billion from the Bank for International Settlements (BIS) to the Banco Central do Brazil (Banco Central). Eighteen other central banks and monetary authorities are guaranteeing portions of the BIS credit facility. In addition, through the Bank of Japan, the Government of Japan is providing a swap facility of up to $1.25 billion to Brazil under terms consistent with the terms of the BIS credit facility. Pursuant to the requirements of 31 U.S.C. 5302(b), I am hereby notifying the Congress that I have determined that unique or emergency circumstances require the ESF financing to be available for more than 6 months.

The BIS credit facility is part of a multilateral effort to support an International Monetary Fund (IMF) standby arrangement with Brazil that itself totals approximately $18.1 billion, which is designed to help restore financial market confidence in Brazil and its currency, and to reestablish conditions for long-term sustainable growth. The IMF is providing this package through normal credit tranches and the Supplemental Reserve Facility (SRF), which provides short-term financing at significantly higher interest rates than those for credit tranche financing. Also, the World Bank and the Inter-American Development Bank are providing up to $9 billion in support of the international financial package for Brazil.

Since December 1998, international assistance from the IMF, the BIS credit facility, and the Bank of Japan's swap facility has provided key support for Brazil's efforts to reform its economy and resolve its financial crisis. From the IMF arrangement, Brazil has purchased approximately $4.6 billion in December 1998 and approximately $4.9 billion in April 1999. On December 18, 1998, the Banco Central made a first drawing of $4.15 billion from the BIS credit facility and also drew $390 million from the Bank of Japan's swap facility. The Banco Central made a second drawing of $4.5 billion from the BIS credit facility and $423.5 million from the Bank of Japan's swap facility on April 9, 1999. The ESF's ''guarantee'' share of each of these BIS credit facility drawings is approximately 38 percent.

Each drawing from the BIS credit facility or the Bank of Japan's swap facility matures in 6 months, with an option for additional 6-month renewals. The Banco Central must therefore repay its first drawing from the BIS and Bank of Japan facilities by June 18, 1999, unless the parties agree to the roll-over. The Banco Central has informed the BIS and the Bank of Japan that it plans to request, in early June, a roll-over of 70 percent of the first drawing from each facility, and will repay 30 percent of the first drawing from each facility.

The BIS's agreement with the Banco Central contains conditions that minimize risks to the ESF. For example, the participating central banks or the BIS may accelerate repayment if the Banco Central has failed to meet any conditions of the agreement or Brazil has failed to meet any material obligation to the IMF. The Banco Central must repay the BIS no slower than, and at least in proportion to Brazil's repayments to the IMF's SRF and to the Bank of Japan's swap facility. The Government of Brazil is guaranteeing the performance of the Banco Central's obligations under its agreement with the BIS, and, pursuant to the agreement, Brazil must maintain its gross international reserves at a level no less than the sum of the principal amount outstanding under the BIS facility, the principal amount outstanding under Japan's swap facility, and a suitable margin. Also, the participating central banks and the BIS must approve any Banco Central request for a drawing or roll-over from the BIS credit facility.

Before the financial crisis that hit Brazil last fall, Brazil had made remarkable progress toward reforming its economy, including reducing inflation from more than 2000 percent 5 years ago to less than 3 percent in 1998,

and successfully implementing an extensive privatization program. Nonetheless, its large fiscal deficit left it vulnerable during the recent period of global financial turbulence. Fiscal adjustment to address that deficit therefore formed the core of the stand-by arrangement that Brazil reached with the IMF last December.

Despite Brazil's initial success in implementing the fiscal reforms required by this stand-by arrangement, there were some setbacks in passing key legislation, and doubts emerged about the willingness of some key Brazilian states to adjust their finances. Ultimately, the government secured passage of virtually all the fiscal measures, or else took offsetting actions. However, the initial setbacks and delays eroded market confidence in December 1998 and January 1999, and pressure on Brazil's foreign exchange reserves intensified. Rather than further deplete its reserves, Brazil in mid-January first devalued and then floated its currency, the real, causing a steep decline of the real's value against the dollar. As a consequence, Brazil needed to prevent a spiral of depreciation and inflation that could have led to deep financial instability.

After the decision to float the real, and in close consultation with the IMF, Brazil developed a revised economic program for 1999–2001, which included deeper fiscal adjustments and transparent and prudent monetary policy designed to contain inflationary pressures. These adjustments will take some time to restore confidence fully. In the meantime, the strong support of the international community has been and will continue to be helpful in reassuring the markets that Brazil can restore sustainable financial stability.

Brazil's experience to date under its revised program with the IMF has been very encouraging. The exchange rate has strengthened from its lows of early March and has been relatively stable in recent weeks; inflation is significantly lower than expected and declining; inflows of private capital are resuming; and most analysts now believe that the economic downturn will be less severe than initially feared.

Brazil's success to date will make it possible for it to repay a 30 percent portion of its first (December) drawing from the BIS credit facility and the Bank of Japan swap facility. With continued economic improvement, Brazil is likely to be in a position to repay the remainder of its BIS and Bank of Japan obligations relatively soon. However, Brazil has indicated that it would be inadvisable to repay 100 percent of the first BIS and Bank of Japan disbursements at this point, given the persistence of risks and uncertainties in the global economy. The timing of this repayment must take into account the risk that using Brazilian reserves to repay both first drawings in their entirety could harm market confidence in Brazil's financial condition. This could undermine the purpose of our support: protecting financial stability in Brazil and in other emerging markets, which ultimately benefits U.S. exports and jobs. Given that the BIS and Bank of Japan facilities charge a substantial premium over the 6-month Eurodollar interest rate, the Banco Central has an incentive to repay them as soon as is prudent.

The IMF stand-by arrangement and the BIS and Bank of Japan facilities constitute a vital international response to Brazil's financial crisis, which threatens the economic welfare of Brazil's 160 million people and of other countries in the region and elsewhere in the world. Brazil's size and importance as the largest economy in Latin America mean that its financial and economic stability are matters of national interest to the United States. Brazil's industrial output is the largest in Latin America; it accounts for 45 percent of the region's gross domestic product, and its work force numbers approximately 85 million people. A failure to help Brazil deal with its financial crisis would increase the risk of financial instability in other Latin American countries and other emerging market economies. Such instability could damage U.S. exports, with serious repercussions for our workforce and our economy as a whole.

Therefore, the BIS credit facility is providing a crucial supplement to Brazil's IMF-supported program of economic and financial reform. I believe that strong and continued support from the United States, other governments, and multilateral institutions are crucial to enable Brazil to carry out its economic reform program. In these unique and emergency circumstances, it is both appropriate and necessary to continue to make ESF financing available as needed for more than 6 months to guarantee this BIS credit facility, including any other rollover or drawing that might be necessary in the future.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 15, 1999.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January, 1997, the Secretary of the Senate, on June 15, 1999, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1400. An act to amend the Securities Exchange Act of 1934 to improve collection and dissemination of information concerning bond prices and to improve price competition in bond markets, and for other purposes.

The message also announced that the House agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 91. Concurrent resolution authorizing the use of the Capitol Grounds for a clinic to be conducted by the United States Luge Association.

H. Con. Res. 105. Concurrent resolution authorizing the Law Enforcement Torch Run for the 1999 Special Olympics World Games to be run through the Capitol Grounds.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1400. An act to amend the Securities Exchange Act of 1934 to improve collection and dissemination of information concerning bond prices and to improve price competition in bond markets, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 91. Concurrent resolution authorizing the use of the Capitol Grounds for a clinic to be conducted by the United States Luge Association; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1221. A bill for the relief of Ashley Ross Fuller; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. DASCHLE, and Mr. BAUCUS):

S. 1222. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance to farmers; to the Committee on Finance.

By Mr. SCHUMER:

S. 1223. A bill to provide for public library construction and technology enhancement; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DASCHLE:

S. Res. 123. A resolution to authorize representation of Members of the Senate in the case of Candis Ray v. John Edwards, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. GRASSLEY, Mr. DASCHLE, and Mr. BAUCUS):

S. 1222. A bill to amend the Trade Act of 1974 to provide trade adjustment assistance to farmers; to the Committee on Finance.

THE TRADE ADJUSTMENT ASSISTANCE FOR FARMERS ACT

● Mr. CONRAD. Mr. President, I rise today to introduce a bill that would amend the Trade Act of 1974 to make farmers eligible for Trade Adjustment Assistance (TAA) similar to that provided to workers in other industries who suffer when there is an increase in imported products. This bill would provide equitable treatment for farmers

when imports affect the prices of the commodities they grow.

When imports cause layoffs in manufacturing industries, workers are eligible for TAA. However, when imports cause agricultural commodity prices to drop, farmers lose income but they don't lose their jobs. That means they generally don't get benefits from TAA. Let me explain why.

Farmers typically do not earn a salary check. Farmers get paid for the crops or livestock that they grow. When commodity prices are low, the check the farmers get for all the hard work of growing crops or livestock for a whole year may be so low that they cannot cover family expenses. In some cases, the payment they get for selling their crops or livestock is so low that they cannot even cover the costs necessary to produce the commodity (such as feed, seed, fertilizer, etc.), so the farmers lose money for the year. Low prices resulting from imports directly reduce farmers' incomes, but because farmers do not actually lose their jobs, they do not qualify for the TAA benefit.

For example, farmers in my state are experiencing record low prices that result, in part, from a flood of imports of wheat, barley and livestock from Canada. These imports cost North Dakota farmers hundreds of millions of dollars in lost income. But North Dakota farmers have not been able to take advantage of the TAA program. The bill that I am introducing today would provide some equity by ensuring that farmers whose income was affected by imports would be eligible for TAA benefits just like other workers.

Most of us would agree that trade is extremely important to our overall economy. International trade allows Americans to sell U.S.-made products to world markets, rather than just to those who live in this country. Trade also allows American to buy products that the rest of the world produces. And trade is especially important to our agricultural economy. According to the U.S. Department of Agriculture, one-third of U.S. crop land produces for export.

U.S. agricultural exports are a bright spot for our nation's balance of trade. In 1999, the United States is expected to export $49 billion worth of goods, compared to agricultural imports this year of $37.5 billion. Thus, agricultural exports contribute $11.5 billion to our balance of trade with other nations.

Nonetheless, many farmers and other citizens feel that they can be hurt by free trade. When we import commodities that compete with what Americans are producing, then some American producers—whether they are workers, firms, or farmers—can be hurt by falling prices for the goods they produce.

As a result, the lack of trade adjustment assistance for farmers has undercut support for trade among many family farmers.

By giving farmers some protection against precipitous income losses from imports, the Trade Adjustment Assistance for Farmers Act can help strengthen support for trade agreements that expand agricultural export opportunities.

We need to be sure that we don't leave American farmers behind, and that we treat farmers fairly in comparison with other American workers and industries. That's why I am introducing this bill, the Trade Adjustment Assistance for Farmers Act.

This bill would amend the Trade Act of 1974 to provide trade adjustment assistance to farmers by partially compensating them for income lost due to the effect of imports. Here's how it will work.

Farmers would receive benefits that would be triggered when two conditions are met. First, the national average price for a specific commodity for the previous marketing year must have dropped more than 20 percent below the average price in the previous 5-year period. Second, increased imports—or a high level of imports—must have contributed importantly to the commodity price reduction.

A group of farmers who grow a particular commodity (or a commodity group representing them) would submit an application for trade adjustment assistance to the Labor Department. The Secretary of Labor (consulting with the Secretary of Agriculture) would determine whether the two triggers had been met.

If the commodity is determined to be eligible, then individual producers could apply for benefits. Farmers who are eligible for benefits under the program would receive a cash assistance payment equal to half the difference between the national average price for the year (as determined by USDA) and 80 percent of the average price in the previous 5 years (the price trigger level), multiplied by the number of units the farmers had produced. The maximum cash benefits available to farmers under this program would be $10,000 per year.

Training and employment benefits that are available to workers under TAA would also be available, on an optional basis, to farmers who are eligible for cash assistance benefits under the law. For example, a farm family that was suffering from low prices due to increased imports might consider retraining to learn skills in the high-tech computer industry, which they could use in an at-home business to supplement farm income.

In most years, this program would likely have a modest cost because very few commodities, if any, would be eligible for assistance. However, in a year like the last we have just been through—when hog and wheat prices dropped precipitously—this program would be one tool to provide a modest amount of support to compensate farmers for the harmful effect of imports on their commodity prices and thus their incomes. Thus the bill would treat family farmers fairly, including them in the protections available to others in our economy who are hurt by the increased trade that, in the aggregate, benefits us all.

Mr. President, I hope my colleagues will join me in supporting American family farmers as they compete in the global market place.●

By Mr. SCHUMER:

S. 1223. A bill to provide for public library construction and technology enhancement; to the Committee on Health, Education, Labor, and Pensions.

ANDREW CARNEGIE LIBRARIES FOR LIFELONG LEARNING ACT

Mr. SCHUMER. Mr. President, I rise today to introduce legislation that will prepare our nation's public libraries for the twenty-first century: the Andrew Carnegie Libraries for Lifelong Learning Act. Mr. President our nation's libraries are in crisis. Eighty-five percent of America's nearly 16,000 libraries require expansion or renovation. In New York State alone, 1.3 million citizens do not have access to free basic library services and nearly one-half of the state's libraries cannot accommodate users with disabilities.

The Andrew Carnegie Libraries for Life-Long Learning Act is designed to prepare America's libraries for the twenty-first century by providing grants of one billion dollars over five years for construction, renovation, and rehabilitation of public library facilities. The bill will also permit libraries to use grants to purchase high-tech hardware and information technology so that all citizens can take advantage of the tools of the information age. Since the funds provided through this legislation must be matched dollar for dollar by states, cities, or private sources, billions of additional dollars will be leveraged. Moreover, since the grants will be awarded competitively, areas most in need will receive much needed assistance.

At the turn of the twentieth century, steel magnate Andrew Carnegie created nearly 3,000 libraries. His impact is still being felt in places like Astoria, Queens, Harlem, and Port Richmond Staten Island, where libraries endowed by Carnegie remain in service today. Imagine how different America would be without this gift. Now, the information age is upon us and libraries must play an integral role in providing citizens the resources they need to succeed in a knowledge intensive economy. The future of America depends less on the minerals in our soil than our intellectual capital. Strong public libraries can serve as anchors in communities so that young people can receive a strong education and so that life-long learning can become a reality for every citizen. Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Andrew Carnegie Libraries for Lifelong Learning Act''.

SEC. 2. PUBLIC LIBRARY CONSTRUCTION AND TECHNOLOGY ENHANCEMENT.

The Library Services and Technology Act (20 U.S.C. 9121 et seq.) is amended—

(1) by redesignating chapter 3 as chapter 4; and

(2) by inserting after chapter 2 the following:

''CHAPTER 3—PUBLIC LIBRARY CONSTRUCTION AND TECHNOLOGY ENHANCEMENT

''SEC. 241. GRANTS TO STATES FOR PUBLIC LIBRARY CONSTRUCTION AND TECHNOLOGY ENHANCEMENT.

''(a) IN GENERAL.—From amounts appropriated under section 244 the Director shall carry out a program of awarding grants to States that have a State plan approved under section 224 for the construction or technology enhancement of public libraries.

''(b) DEFINITIONS.—In this chapter:

''(1) CONSTRUCTION.—

''(A) IN GENERAL.—The term 'construction' means—

''(i) construction of new buildings;

''(ii) the acquisition, expansion, remodeling, and alteration of existing buildings;

''(iii) the purchase, lease, and installation of equipment for any new or existing buildings; or

''(iv) any combination of the activities described in clauses (i) through (iii), including architects' fees and the cost of acquisition of land.

''(B) SPECIAL RULE.—Such term includes remodeling to meet standards under the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (42 U.S.C. 4151 et seq.), commonly known as the 'Architectural Barriers Act of 1968', remodeling designed to ensure safe working environments and to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of historic buildings for conversion to public libraries.

''(2) EQUIPMENT.—The term 'equipment' means—

''(A) information and building technologies, video and telecommunications equipment, machinery, utilities, built-in equipment, and any necessary enclosures or structures to house the technologies, equipment, machinery or utilities; and

''(B) all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

''(3) PUBLIC LIBRARY.—The term 'public library' means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds. Such term also includes a research library, which, for the purposes of this sentence, means a library, which—

''(A) makes its services available to the public free of charge;

''(B) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

''(C) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

''(D) is not an integral part of an institution of higher education.

''(4) TECHNOLOGY ENHANCEMENT.—The term 'technology enhancement' means the acquisition, installation, maintenance, or replacement, of substantial technological equipment (including library bibliographic automation equipment) necessary to provide access to information in electronic and other formats made possible by new information and communications technologies.

''(c) APPLICABILITY.—Except as provided in section 243, the provisions of this subtitle (other than this chapter) shall not apply to this chapter.

''SEC. 242. USES OF FEDERAL FUNDS.

''(a) IN GENERAL.—A State shall use funds appropriated under section 244 to pay the Federal share of the cost of construction or technology enhancement of public libraries.

''(b) FEDERAL SHARE.—

''(1) IN GENERAL.—For the purposes of subsection (a), the Federal share of the cost of construction or technology enhancement of any project assisted under this chapter shall not exceed one-half of the total cost of the project.

''(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of construction or technology enhancement of any project assisted under this chapter may be provided from State, local or private sources, including for-profit and nonprofit organizations.

''(c) SPECIAL RULE.—If, within 20 years after completion of construction of any public library facility that has been constructed in part with grant funds made available under this chapter—

''(1) the recipient of the grant funds (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

''(2) the facility ceases to be used as a library facility, unless the Director determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such recipient (or successor) an amount which bears the same ratio to the value of the facility at that time (or part thereof constituting an approved project or projects) as the amount of the Federal grant bore to the cost of such facility (or part thereof). The value shall be determined by the parties or by action brought in the United States district court for the district in which the facility is located.

''SEC. 243. DESCRIPTION INCLUDED IN STATE PLAN.

''Any State desiring to receive a grant under this chapter for any fiscal year shall submit, as a part of the State plan under section 224, a description of the public library construction or technology enhancement activities to be assisted under this chapter.

''SEC. 244. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $200,000,000 for fiscal year 2000 and each of the 4 succeeding fiscal years.''.

ADDITIONAL COSPONSORS

S. 51

At the request of Mr. BIDEN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 172

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 172, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 333

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 333, a bill to amend the Federal Agriculture Improvement and Reform Act of 1996 to improve the farmland protection program.

S. 427

At the request of Mr. ABRAHAM, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 427, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 459

At the request of Mr. BREAUX, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. CLELAND), and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 468

At the request of Mr. THOMPSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 468, a bill to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

S. 556

At the request of Mr. BAUCUS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 556, a bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, consolidation, or construction of post offices, and for other purposes.

S. 579

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 579, a bill to amend the Foreign Assistance Act of 1961 to target assistance to support the economic and political independence of the countries of the South Caucasus and Central Asia.

S. 664

At the request of Mr. CHAFEE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals

who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 666

At the request of Mr. LUGAR, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 666, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 676

At the request of Mr. CAMPBELL, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 676, a bill to locate and secure the return of Zachary Baumel, a citizen of the United States, and other Israeli soldiers missing in action.

S. 679

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 679, a bill to authorize appropriations to the Department of State for construction and security of United States diplomatic facilities, and for other purposes.

S. 692

At the request of Mr. KYL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 692, a bill to prohibit Internet gambling, and for other purposes.

S. 740

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 740, a bill to amend the Federal Power Act to improve the hydroelectric licensing process by granting the Federal Energy Regulatory Commission statutory authority to better coordinate participation by other agencies and entities, and for other purposes.

S. 784

At the request of Mr. ROCKEFELLER, the names of the Senator from Utah (Mr. HATCH), the Senator from Connecticut (Mr. DODD), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 784, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 789

At the request of Mr. MCCAIN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 789, a bill to amend title 10, United States Code, to authorize payment of special compensation to certain severely disabled uniformed services retirees.

S. 801

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 875

At the request of Mr. ALLARD, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes.

S. 879

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements.

S. 880

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 880, a bill to amend the Clean Air Act to remove flammable fuels from the list of substances with respect to which reporting and other activities are required under the risk management plan program.

S. 897

At the request of Mr. BAUCUS, the names of the Senator from Colorado (Mr. ALLARD), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Nebraska (Mr. KERREY) were added as cosponsors of S. 897, a bill to provide matching grants for the construction, renovation and repair of school facilities in areas affected by Federal activities, and for other purposes.

S. 984

At the request of Ms. COLLINS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 984, a bill to amend the Internal Revenue Code of 1986 to modify the tax credit for electricity produced from certain renewable resources.

S. 1017

At the request of Mr. GRAHAM, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Delaware (Mr. BIDEN), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 1017, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on the low-income housing credit.

S. 1020

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1034

At the request of Mr. AKAKA, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1034, a bill to amend title XVIII of the Social Security Act to increase the amount of payment under the Medicare program for pap smear laboratory tests.

S. 1042

At the request of Mrs. HUTCHISON, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1042, a bill to amend the Internal Revenue Code of 1986 to encourage domestic oil and gas production, and for other purposes.

S. 1053

At the request of Mr. BOND, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1070

At the request of Mr. BOND, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 1070, a bill to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard, regulation or guideline on ergonomics.

S. 1124

At the request of Ms. COLLINS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1124, a bill to amend the Internal Revenue Code of 1986 to eliminate the 2-percent floor on miscellaneous itemized deductions for qualified professional development expenses of elementary and secondary school teachers.

SENATE CONCURRENT RESOLUTION 34

At the request of Mr. SPECTER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of Senate Concurrent Resolution 34, a concurrent resolution relating to the observance of ''In Memory'' Day.

SENATE CONCURRENT RESOLUTION 36

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Concurrent Resolution 36, a concurrent resolution condemning Palestinian efforts to revive the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian self-determination on the basis of the original Palestine partition plan.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of Senate Resolution 59, a resolution designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

SENATE RESOLUTION 96

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of Senate Resolution 96, a resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor, and for other purposes.

SENATE RESOLUTION 113

At the request of Mr. SMITH, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from

Virginia (Mr. WARNER), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Kansas (Mr. BROWNBACK), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of Senate Resolution 113, a resolution to amend the Standing Rules of the Senate to require that the Pledge of Allegiance to the Flag of the United States be recited at the commencement of the daily session of the Senate.

SENATE RESOLUTION 118

At the request of Mr. REID, the names of the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of Senate Resolution 118, a resolution designating December 12, 1999, as ''National Children's Memorial Day.''

AMENDMENT NO. 630

At the request of Mr. LAUTENBERG his name was added as a cosponsor of amendment No. 630 intended to be proposed to S. 1186, an original bill making appropriations for energy and water development for the fiscal year ending September 30, 2000.

AMENDMENT NO. 631

At the request of Mr. LAUTENBERG his name was added as a cosponsor of amendment No. 631 intended to be proposed to S. 1186, an original bill making appropriations for energy and water development for the fiscal year ending September 30, 2000.

AMENDMENT NO. 637

At the request of Mr. LEVIN the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Ohio (Mr. DEWINE), and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 637 intended to be proposed to S. 1186, an original bill making appropriations for energy and water development for the fiscal year ending September 30, 2000.

SENATE RESOLUTION 123—TO AUTHORIZE REPRESENTATION OF MEMBERS OF THE SENATE

Mr. DASCHLE submitted the following resolution; which was considered and agreed to:

S. RES. 123

Whereas, in the case of *Candis O. Ray* v. *John Edwards, et al.*, Case No. 99–CV–1104–EGS, pending in the United States District Court for the District of Columbia, the plaintiff has named as defendants Senator Trent Lott and Senator John Edwards;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Lott and Senator Edwards in the case of *Candis O. Ray* v. *John Edwards, et al.*

AMENDMENTS SUBMITTED

SOCIAL SECURITY AND MEDICARE SAFE DEPOSIT BOX ACT OF 1999

DOMENICI AMENDMENTS NOS. 663–664

(Ordered to lie on the table.)

Mr. DOMENICI submitted two amendments intended to be proposed by him to the bill (H.R. 1259) to amend the Congressional Budget Act of 1974 to protect Social Security surpluses through strengthening budgetary enforcement mechanisms; as follows:

AMENDMENT NO. 663

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Security Safe Deposit Box Act of 1999''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Congress and the President joined together to enact the Balanced Budget Act of 1997 to end decades of deficit spending;

(2) strong economic growth and fiscal discipline have resulted in strong revenue growth into the Treasury;

(3) the combination of these factors is expected to enable the Government to balance its budget without the Social Security surpluses;

(4) the Congress has chosen to allocate in this Act all Social Security surpluses toward saving Social Security;

(5) amounts so allocated are even greater than those reserved for Social Security in the President's budget, will not require an increase in the statutory debt limit, and will reduce debt held by the public until Social Security reform is enacted; and

(6) this strict enforcement is needed to lock away the amounts necessary for legislation to save Social Security.

(b) PURPOSE.—It is the purpose of this Act to prohibit the use of Social Security surpluses for any purpose other than Social Security.

SEC. 3. PROTECTION OF SOCIAL SECURITY SURPLUSES.

(a) POINTS OF ORDER TO PROTECT SOCIAL SECURITY SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) OTHER LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.

''(3) EXCEPTION.—The point of order set forth in paragraph (2) shall not apply to Social Security reform legislation as defined by section 5(c) of the Social Security Safe Deposit Box Act of 1999.

''(4) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year.''.

(b) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) the receipts, outlays, and surplus or deficit in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, combined, established by title II of the Social Security Act;''.

(c) SUPER MAJORITY REQUIREMENT.—(1) Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(2) Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

SEC. 4. REMOVING SOCIAL SECURITY FROM BUDGET PRONOUNCEMENTS.

(a) IN GENERAL.—Any official statement issued by the Office of Management and Budget, the Congressional Budget Office, or any other agency or instrumentality of the Federal Government of surplus or deficit totals of the budget of the United States Government as submitted by the President or of the surplus or deficit totals of the congressional budget, and any description of, or reference to, such totals in any official publication or material issued by either of such Offices or any other such agency or instrumentality, shall exclude the outlays and receipts of the old-age, survivors, and disability insurance program under title II of the Social Security Act (including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund) and the related provisions of the Internal Revenue Code of 1986.

(b) SEPARATE SOCIAL SECURITY BUDGET DOCUMENTS.—The excluded outlays and receipts of the old-age, survivors, and disability insurance program under title II of the Social Security Act shall be submitted in separate Social Security budget documents.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect upon the date of its enactment and the amendments made by this Act shall apply only to fiscal year 2000 and subsequent fiscal years.

(b) EXPIRATION.—Sections 301(a)(6) and 312(g) of the Congressional Budget Act of 1974 shall expire upon the enactment of Social Security reform legislation that significantly extends the solvency of the Social Security trust funds.

(c) SOCIAL SECURITY REFORM LEGISLATION.—The term ''Social Security reform legislation'' means a bill or a joint resolution that—

(1) significantly extends the solvency of the Social Security trust funds; and

(2) includes a provision stating the following: ''For purposes of the Social Security Safe Deposit Box Act of 1999, this Act constitutes Social Security reform legislation.''.

AMENDMENT NO. 664

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Security Safe Deposit Box Act of 1999''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Congress and the President joined together to enact the Balanced Budget Act of 1997 to end decades of deficit spending;

(2) strong economic growth and fiscal discipline have resulted in strong revenue growth into the Treasury;

(3) the combination of these factors is expected to enable the Government to balance its budget without the Social Security surpluses;

(4) the Congress has chosen to allocate in this Act all Social Security surpluses toward saving Social Security;

(5) amounts so allocated are even greater than those reserved for Social Security in the President's budget, will not require an increase in the statutory debt limit, and will reduce debt held by the public until Social Security reform is enacted; and

(6) this strict enforcement is needed to lock away the amounts necessary for legislation to save Social Security.

(b) PURPOSE.—It is the purpose of this Act to prohibit the use of Social Security surpluses for any purpose other than Social Security.

SEC. 3. PROTECTION OF SOCIAL SECURITY SURPLUSES.

(a) POINTS OF ORDER TO PROTECT SOCIAL SECURITY SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY SURPLUSES.—

''(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

''(2) OTHER LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of that bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of that bill or resolution in the form recommended in that conference report,

would cause or increase an on-budget deficit for any fiscal year.

''(3) EXCEPTION.—The point of order set forth in paragraph (2) shall not apply to Social Security reform legislation as defined by section 5(c) of the Social Security Safe Deposit Box Act of 1999.

''(4) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year.''.

(b) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) the receipts, outlays, and surplus or deficit in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, combined, established by title II of the Social Security Act;''.

(c) SUPER MAJORITY REQUIREMENT.—(1) Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

(2) Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting ''312(g),'' after ''310(d)(2),''.

SEC. 4. REMOVING SOCIAL SECURITY FROM BUDGET PRONOUNCEMENTS.

(a) IN GENERAL.—Any official statement issued by the Office of Management and Budget, the Congressional Budget Office, or any other agency or instrumentality of the Federal Government of surplus or deficit totals of the budget of the United States Government as submitted by the President or of the surplus or deficit totals of the congressional budget, and any description of, or reference to, such totals in any official publication or material issued by either of such Offices or any other such agency or instrumentality, shall exclude the outlays and receipts of the old-age, survivors, and disability insurance program under title II of the Social Security Act (including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund) and the related provisions of the Internal Revenue Code of 1986.

(b) SEPARATE SOCIAL SECURITY BUDGET DOCUMENTS.—The excluded outlays and receipts of the old-age, survivors, and disability insurance program under title II of the Social Security Act shall be submitted in separate Social Security budget documents.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect upon the date of its enactment and the amendments made by this Act shall apply only to fiscal year 2000 and subsequent fiscal years.

(b) EXPIRATION.—Sections 301(a)(6) and 312(g) of the Congressional Budget Act of 1974 shall expire upon the enactment of Social Security reform legislation that significantly extends the solvency of the Social Security trust funds.

(c) SOCIAL SECURITY REFORM LEGISLATION.—The term ''Social Security reform legislation'' means a bill or a joint resolution that—

(1) significantly extends the solvency of the Social Security trust funds; and

(2) includes a provision stating the following: ''For purposes of the Social Security Safe Deposit Box Act of 1999, this Act constitutes Social Security reform legislation.''.

KENNEDY AMENDMENT NO. 665

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, H.R. 1259, supra; as follows:

On page 4, strike lines 6 through 10.

On page 6, strike beginning with line 11 through the end of the bill.

MOYNIHAN AMENDMENT NO. 666

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the bill, H.R. 1259, supra; as follows:

Add the following paragraph to new section 312(g):

''(5) EXCEPTION FOR LOW ECONOMIC GROWTH AND WAR.—

''(A) LOW ECONOMIC GROWTH.—If the most recent of the Department of Commerce's advance, preliminary, or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than 1 percent, the points of order established by this subsection are suspended.

''(B) WAR.—If a declaration of war is in effect, the points of order established by this subsection are suspended.

MCCAIN AMENDMENTS NO. 667–668

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill, H.R. 1259, supra; as follows:

AMENDMENT NO. 667

At the end of the bill, add the following:

TITLE II—PROTECTING AND PRESERVING THE SOCIAL SECURITY TRUST FUNDS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Protecting and Preserving the Social Security Trust Funds Act''.

SEC. 202. FINDINGS.

Congress finds that—

(1) the $69,246,000,000 unified budget surplus achieved in fiscal year 1998 was entirely due to surpluses generated by the social security trust funds and the cumulative unified budget surpluses projected for subsequent fiscal years are primarily due to surpluses generated by the social security trust funds;

(2) Congress and the President should not use the social security trust funds surpluses to balance the budget or fund existing or new non-social security programs;

(3) all surpluses generated by the social security trust funds must go towards saving and strengthening the social security system; and

(4) at least 62 percent of the on-budget (non-social security) surplus should be reserved and applied to the social security trust funds.

SEC. 203. PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS.

(a) PROTECTION BY CONGRESS.—

(1) REAFFIRMATION OF SUPPORT.—Congress reaffirms its support for the provisions of section 13301 of the Budget Enforcement Act of 1990 that provides that the receipts and disbursements of the social security trust funds shall not be counted for the purposes of the budget submitted by the President, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) PROTECTION OF SOCIAL SECURITY BENEFITS.—Balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be used solely for paying social security benefit payments as promised to be paid by law.

(b) POINTS OF ORDER.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(j) SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereon that violates section 13301 of the Budget Enforcement Act of 1990.

''(k) SOCIAL SECURITY SURPLUS PROTECTION POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereon that would cause or increase an on-budget deficit for any fiscal year.

''(l) SUBSEQUENT LEGISLATION.—

''(1) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of the bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of the bill or resolution in the form recommended in the conference report;

would cause or increase an on-budget deficit for any fiscal year.

''(2) EXCEPTION TO POINT OF ORDER.—This subsection shall not apply to social security reform legislation that would protect the social security system from insolvency and

preserve benefits as promised to beneficiaries.''.

(c) SUPERMAJORITY WAIVER AND APPEAL.—Subsections (c)(1) and (d)(2) of section 904 of the Congressional Budget Act of 1974 are amended by striking ''305(b)(2),'' and inserting ''301(j), 301(k), 301(l), 305(b)(2)''.

SEC. 204. SEPARATE BUDGET FOR SOCIAL SECURITY.

(a) EXCLUSION.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be excluded from—

(1) any official documents by Federal agencies regarding the surplus or deficit totals of the budget of the Federal Government as submitted by the President or of the surplus or deficit totals of the congressional budget; and

(2) any description or reference in any official publication or material issued by any other agency or instrumentality of the Federal Government.

(b) SEPARATE BUDGET.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be submitted as a separate budget.

SEC. 205. PRESIDENT'S BUDGET.

Section 1105(f) of title 31, United States Code, is amended by striking ''in a manner consistent'' and inserting ''in compliance''.

TITLE III—SAVING SOCIAL SECURITY FIRST

SEC. 301. DESIGNATION OF ON-BUDGET SURPLUS.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than the amount referred to in subsection (b) for a fiscal year shall be reserved for and applied to the social security trust funds for that fiscal year in addition to the surpluses generated by the trust funds.

(b) AMOUNT RESERVED.—The amount referred to in this subsection is—

(1) for fiscal year 2001, $6,820,000,000;
(2) for fiscal year 2002, $36,580,000,000;
(3) for fiscal year 2003, $31,620,000,000;
(4) for fiscal year 2004, $42,160,000,000;
(5) for fiscal year 2005, $48,980,000,000;
(6) for fiscal year 2006, $71,920,000,000;
(7) for fiscal year 2007, $83,080,000,000;
(8) for fiscal year 2008, $90,520,000,000; and
(9) for fiscal year 2009, $102,300,000,000.

SEC. 302. SENSE OF THE SENATE ON DEDICATING ADDITIONAL SURPLUS AMOUNTS.

It is the sense of the Senate if the budget surplus in future years is greater than the currently projected surplus, serious consideration should be given to directing more of the surplus to strengthening the social security trust funds.

AMENDMENT NO. 668

At the end of the bill, add the following:

TITLE II—ELIMINATION OF SOCIAL SECURITY EARNINGS TEST

SEC. 201. SHORT TITLE.

This title may be cited as the ''Older Americans Freedom to Work Act''.

SEC. 202. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking ''the age of seventy'' and inserting ''retirement age (as defined in section 216(l))'';

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking ''the age of seventy'' each place it appears and inserting ''retirement age (as defined in section 216(l))'';

(3) in subsection (f)(1)(B), by striking ''was age seventy or over'' and inserting ''was at or above retirement age (as defined in section 216(l))'';

(4) in subsection (f)(3)—

(A) by striking ''33⅓ percent'' and all that follows through ''any other individual,'' and inserting ''50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),''; and

(B) by striking ''age 70'' and inserting ''retirement age (as defined in section 216(l))'';

(5) in subsection (h)(1)(A), by striking ''age 70'' each place it appears and inserting ''retirement age (as defined in section 216(l))''; and

(6) in subsection (j)—

(A) in the heading, by striking ''Age Seventy'' and inserting ''Retirement Age''; and

(B) by striking ''seventy years of age'' and inserting ''having attained retirement age (as defined in section 216(l))''.

(b) CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—

(1) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking ''the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable'' and inserting ''a new exempt amount which shall be applicable''.

(2) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(A) in the matter preceding clause (i), by striking ''Except'' and all that follows through ''whichever'' and inserting ''The exempt amount which is applicable for each month of a particular taxable year shall be whichever'';

(B) in clauses (i) and (ii), by striking ''corresponding'' each place it appears; and

(C) in the last sentence, by striking ''an exempt amount'' and inserting ''the exempt amount''.

(3) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking ''nor shall any deduction'' and all that follows and inserting ''nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.''; and

(B) in subsection (f)(1), by striking clause (D) and inserting the following: ''(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,''.

(2) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(A) by striking ''either''; and

(B) by striking ''or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit''.

(3) PROVISIONS RELATING TO EARNINGS TAKEN INTO ACCOUNT IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY OF BLIND INDIVIDUALS.—The second sentence of section 223(d)(4)(A) of the Social Security Act (42 U.S.C. 423(d)(4)(A)) is amended by striking ''if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted'' and inserting the following: ''if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Senior Citizens' Freedom to Work Act of 1999 had not been enacted''.

(d) EFFECTIVE DATE.—The amendments and repeals made by this section shall apply with respect to taxable years ending after December 31, 1998.

TITLE III—PROTECTING AND PRESERVING THE SOCIAL SECURITY TRUST FUNDS

SEC. 301. SHORT TITLE.

This title may be cited as the ''Protecting and Preserving the Social Security Trust Funds Act''.

SEC. 302. FINDINGS.

Congress finds that—

(1) the $69,246,000,000 unified budget surplus achieved in fiscal year 1998 was entirely due to surpluses generated by the social security trust funds and the cumulative unified budget surpluses projected for subsequent fiscal years are primarily due to surpluses generated by the social security trust funds;

(2) Congress and the President should not use the social security trust funds surpluses to balance the budget or fund existing or new non-social security programs;

(3) all surpluses generated by the social security trust funds must go towards saving and strengthening the social security system; and

(4) at least 62 percent of the on-budget (non-social security) surplus should be reserved and applied to the social security trust funds.

SEC. 303. PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS.

(a) PROTECTION BY CONGRESS.—

(1) REAFFIRMATION OF SUPPORT.—Congress reaffirms its support for the provisions of section 13301 of the Budget Enforcement Act of 1990 that provides that the receipts and disbursements of the social security trust funds shall not be counted for the purposes of the budget submitted by the President, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) PROTECTION OF SOCIAL SECURITY BENEFITS.—Balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be used solely for paying social security benefit payments as promised to be paid by law.

(b) POINTS OF ORDER.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(j) SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereon that violates section 13301 of the Budget Enforcement Act of 1990.

''(k) SOCIAL SECURITY SURPLUS PROTECTION POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereon that would cause or increase an on-budget deficit for any fiscal year.

''(l) SUBSEQUENT LEGISLATION.—

''(1) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of the bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of the bill or resolution in the form recommended in the conference report;

would cause or increase an on-budget deficit for any fiscal year.

''(2) EXCEPTION TO POINT OF ORDER.—This subsection shall not apply to social security reform legislation that would protect the social security system from insolvency and preserve benefits as promised to beneficiaries.''.

(c) SUPERMAJORITY WAIVER AND APPEAL.—Subsections (c)(1) and (d)(2) of section 904 of the Congressional Budget Act of 1974 are amended by striking ''305(b)(2),'' and inserting ''301(j), 301(k), 301(l), 305(b)(2)''.

SEC. 304. SEPARATE BUDGET FOR SOCIAL SECURITY.

(a) EXCLUSION.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be excluded from—

(1) any official documents by Federal agencies regarding the surplus or deficit totals of the budget of the Federal Government as submitted by the President or of the surplus or deficit totals of the congressional budget; and

(2) any description or reference in any official publication or material issued by any other agency or instrumentality of the Federal Government.

(b) SEPARATE BUDGET.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be submitted as a separate budget.

SEC. 305. PRESIDENT'S BUDGET.

Section 1105(f) of title 31, United States Code, is amended by striking ''in a manner consistent'' and inserting ''in compliance''.

TITLE IV—SAVING SOCIAL SECURITY FIRST

SEC. 401. DESIGNATION OF ON-BUDGET SURPLUS.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than the amount referred to in subsection (b) for a fiscal year shall be reserved for and applied to the social security trust funds for that fiscal year in addition to the surpluses generated by the trust fund.

(b) AMOUNT RESERVED.—The amount referred to in this subsection is—

(1) for fiscal year 2001, $6,820,000,000;
(2) for fiscal year 2002, $36,580,000,000;
(3) for fiscal year 2003, $31,620,000,000;
(4) for fiscal year 2004, $42,160,000,000;
(5) for fiscal year 2005, $48,980,000,000;
(6) for fiscal year 2006, $71,920,000,000;
(7) for fiscal year 2007, $83,080,000,000;
(8) for fiscal year 2008, $90,520,000,000; and
(9) for fiscal year 2009, $102,300,000,000.

SEC. 402. SENSE OF THE SENATE ON DEDICATING ADDITIONAL SURPLUS AMOUNTS.

It is the sense of the Senate if the budget surplus in future years is greater than the currently projected surplus, serious consideration should be given to directing more of the surplus to strengthening the social security trust funds.

GRAMM AMENDMENT NO. 669

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, H.R. 1259, supra; as follows:

On page 4, line 8, strike ''or Medicare reform legislation''.

DOMENICI AMENDMENT NO. 670

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, H.R. 1259, supra; as follows:

At the appropriate place insert the following:

SEC. ___. PROTECTION OF SOCIAL SECURITY SURPLUSES IN THE PRESIDENT'S BUDGET.

(a) IN GENERAL.—Chapter 11 of subtitle II of title 31, United States Code, is amended by inserting before section 1101 the following:

''§ 1100. Protection of social security surpluses

''The budget of the United States Government submitted by the President under this chapter shall not recommend an on-budget deficit for any fiscal year covered by that budget.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code is amended by inserting before the item for section 1101 the following:

''1100. Protection of social security surpluses.''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, for the information of the Senate, on Tuesday, June 22, 1999, the Committee on Energy and Natural Resources, the Committee on Armed Services, the Committee on Governmental Affairs, and the Select Committee on Intelligence will hold a joint hearing to receive testimony from the President's Foreign Intelligence Advisory Board regarding its report to the President: Science at Its Best; Security at Its Worst: A Report on Security Problems at the U.S. Department of Energy. The hearing will be held in room 106 of the Dirksen Senate Office Building, and will begin at 9:30 a.m.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Energy and Natural Resources Committee.

The purpose of the hearing is to explore the effectiveness of existing federal and industry efforts to promote distributed generating technologies, including solar, wind, fuel cells and microturbines, as well as regulatory and other barriers to their widespread use.

The hearing will take place on Tuesday, June 22, 1999, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Energy Research, Development, Production and Regulation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC, 20510–6150.

For further information, please call Katharina Kroll or Colleen Deegan, Counsel, at (202) 224–8115.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, for the information of the Senate on June 29 and July 1, 1999, the Committee on Energy and Natural Resources will hold hearings on S. 161, the Power Marketing Administration Reform Act of 1999, S. 282, the Transition to Competition in the Electric Industry Act, S. 516, the Electric Utility Restructuring Empowerment and Competitiveness Act of 1999, and S. 1047, the Comprehensive Electricity Competition Act. The hearings will be held in room 216 of the Hart Senate Office Building, and will begin at 9:30 a.m. For additional information you may write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Tuesday, June 15, 1999, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. MCCAIN. Mr. President, I ask unanimous consent to conduct a hearing of the Joint Economic Committee in Hart 216 beginning at 9:35 a.m., on June 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Subcommittee on Forest and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, June 15, for purposes of conducting a hearing which is scheduled to begin at 2:30 p.m. The purpose of this oversight hearing is to receive testimony on issues related to vacating the Record of Decision and denial of a plan of operations for the Crown Jewel Mine in Okanogan County, WA.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ADVANCED TECHNICAL CENTER, MEXICO, MISSOURI

● Mr. BOND. Mr. President, I rise today in recognition of the Advanced Technical Center in Mexico, Missouri.

Back in 1997, several community and state leaders approached me regarding funding for the Advanced Technical Center, which at that time existed only

on paper and in the minds of these leaders. I immediately had a certain affection for this project. First and foremost, this project would be located in my hometown of Mexico, Missouri. Second, the local leaders came to me with one of the most comprehensive partnerships that I have ever had the pleasure to work with. The partners included Linn State Technical College, the University of Missouri, Moberly Area Community College, the Mexico Area Vocational and Technical School, the City of Mexico, and the State of Missouri. Third, the Advanced Technical Center would provide students with exceptional educational opportunities through highly specialized and advanced technical education and training at the certificate and degree levels in both emerging and traditional technologies.

In the fall of 1997, the Senate approved and the President signed the appropriation bill providing $1 million in Federal funds for the Advanced Technical Center in Mexico, Missouri. The federal support recognized that the key to staying competitive in today's global marketplace is investing in education and training of our current and future workers. The federal funds, in conjunction with the local and state funds, made this project a reality.

This Friday, June 18, 1999, the Advanced Technical Center will celebrate its Grand Opening. I am looking forward to being a part of the celebration. But, more importantly, I am proud to have been a participant in the successful partnership that has led to the creation of a model, state-of-the-art technical training and learning facility in my hometown of Mexico, MO.●

TRIBUTE TO HENRY AND MARILYN TAUB

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to two very close friends, Henry and Marilyn Taub in honor of the June 15, 1999 dedication of the Henry and Marilyn Taub Science and Technology Center Faculty of Computer Science. This state-of-the-art facility, located at the Technion-Israel Institute of Technology in Haifa, Israel, will be one of the largest computer science facilities in the world. It is only the most recent example of the Taubs' contributions to education. They have had a long history of philanthropic activity.

As Henry Taub's long-time business associate, I witnessed the Taubs' extraordinary commitment to the Technion. They established both the Taub Loan Fund, which aids faculty members in the Electrical Engineering and Computer Science Faculties, as well as the Henry Taub Prize for excellence in research. And their support helped the Institute establish the Morris and Sylvia Taub Computer Center. These outstanding contributions to Israel's top technology institution are but one example of the Taubs' commitment to Israel's strength and independence through science and learning.

They have helped students keep pace with technological advances in this century and have helped make Technion one of the leading technology centers for the next century.

It has been one of my life's most rewarding experiences to have worked with Henry and his brother Joseph. We shared successes together but more significantly, a commitment to a strengthened Israel and world wide Jewish community.

I am honored by my friendship with Henry and Marilyn Taub. The course of my life was heavily influenced by my association with the Taubs and I am grateful for the example that Henry provided for all of us who know him.

His activities serve as an outstanding model of how to respond to success available, to those who will work for it, in this blessed America.

I ask my colleagues to join me in paying tribute to this thoughtful, selfless couple for the excellent work they have done to improve life in America and Israel.●

250TH ANNIVERSARY OF THE TOWN OF BENNINGTON, VERMONT

● Mr. JEFFORDS. Mr. President, I rise today to recognize the 250th anniversary of the Town of Bennington, Vermont. On behalf of all Vermonters, I want to wish this historical town a very happy anniversary.

In 1749, the Governor of New Hampshire, Benning Wentworth, chartered the first town in the territory that would eventually become the State of Vermont. In 1761, the town was named Bennington in his honor. With its access to the Walloomsac River as a power source, the new town quickly built up industries such as paper mills, pottery, grist mills, and the largest cotton batting mill in the United States. It became an important gateway to the region.

During the Revolutionary War, Bennington gained great notoriety with the Battle of Bennington. As the British General, John Burgoyne, marched his troops south from Canada with the plans to capture Albany, they stopped in Vermont intending to forage for supplies. However, they underestimated the strength of their enemy. On August 16, 1777, John Stark, leading a militia of 1500 men, including the Green Mountain Boys, attacked. After two days of fighting, the militia defeated the British with the first decisive victory for the Americans. This critical battle is seen as the turning point in the war because it greatly weakened the British forces, revitalized languishing spirit of the revolutionaries, and ensured another victory at Saratoga. Bennington was also the base of Ethan Allen and the Green Mountain Boys who led the taking of Fort Ticondaroga. To celebrate Bennington's vital role in the American Revolution, I've enjoyed marching in many Bennington Battle Day parades.

The Town of Bennington holds a special place in the Vermont history books. On Bennington's village green stands the meeting house where legislators in 1791 voted for the Independent Republic of Vermont to become the 14th state.

In addition to the town's historical significance, Bennington has a rich cultural heritage. The buildings found in Old Bennington form one the greatest concentrations of early Federal and Georgian architecture in the state. In North Bennington is the Park-McCullough House, built in 1865, which served as home to two Vermont governors. The Bennington Museum houses a collection of paintings by the celebrated folk artist, Grandma Moses, known for her depictions of rural life and the countryside.

Today, Bennington offers much to both its residents and to visiting tourists.

Continuing a long tradition of artistic appreciation, the new Arts Center helps promote a variety of exhibits, threatre productions, literary readings, artists' work space, and dance and musical performances. Bennington also boasts two private colleges: Bennington College, a small liberal arts school with a strong performing arts program; and Southern Vermont College, a small college that prides itself on providing resources to and giving back to the Bennington community.

But the heart of this small town has always been its indomitable people and its close-knit community. It is a community dedicated to improving the lives of all its citizens. This dedication can be seen in several innovative Bennington educational programs, in the town's collaborative approach to helping children and families, and in the significant progress made toward meeting the community's needs for affordable housing.

It gives me great pleasure to recognize the Town of Bennington's 250th anniversary, its significant role in both the history of our country and of the State of Vermont, and its strong, diverse citizens.●

A TRIBUTE TO THE ISRAELI MIA'S

● Mr. SCHUMER. Mr. President, around this time every year I deliver this speech to the House of Representatives and now I am privileged and honored to deliver it to the Senate. I rise today to pay tribute to the capture of several Israeli soldiers who were taken prisoner by the Syrians in the 1982 Israeli war with Lebanon.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in Lebanon's Bekaa Valley. The Syrians succeeded in capturing Sgt. Zachary Baumel, 1st Sgt. Zvi Feldman and Cpt. Yehudah Katz. Upon arrival in Damascus, the identified tank and crew were paraded through the streets draped in Syrian and Palestinian Flags.

Since that terrible day in 1982, the Israeli and the United States Governments have been working to obtain any possible information about the fate of these missing soldiers, joining forces with the offices of the International Committee of the Red Cross, the United Nations and other international bodies. According to the Geneva convention, the area in Lebanon where the soldiers first disappeared was continually controlled by Syria, therefore deeming her responsible for the treatment of the captured soldiers. To this day, despite the promises made by the Syrian Government and by the PLO, very little information has been forthcoming about the condition of Zachary Baumei, Zvi Feldman, and Yehudah Katz.

June 11 marks the anniversary of the day that these soldiers were reported missing in action. Sixteen pain-filled years have already passed since the families of the MIA's have last seen their sons, and yet President Assad has still not revealed their whereabouts.

One of these missing soldiers, Zachary Baumel, is an American citizen from my district in Brooklyn, N.Y. A dedicated basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members, and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew study psychology. But fate had unfortunately decreed otherwise and on June 11, 1982 he vanished.

Zachary's parents, Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Jewish Congregation of America, the American Coalition for missing Israeli Soldiers, and the MIA Task Force of the conference of Presidents of major American Jewish organizations. The Stella K. Abraham High School for Girls forged a project that has increased awareness and support for the MIA's plight for freedom. These groups have been at the forefront of this pursuit of justice. I want to recognize their devoted efforts and ask my colleagues to join me in commending their efforts. These families have been without their children for sixteen years. Answers must be found.●

50TH ANNIVERSARY OF LOS ALAMOS

● Mr. DOMENICI. Mr. President, I rise to congratulate Los Alamos County on its 50th anniversary. This small northern New Mexico county has packed an amazing number of contributions into its short history.

Los Alamos had already completed its momentous contributions during the Second World War, when it was officially created in 1949. But the work of Los Alamos and its contributions to national security were far from completed. Few might have anticipated that the nuclear stockpile created at Los Alamos would lead to an unprecedented five decades free of massive global conflict. During those five decades, the nuclear weapons of the United States have provided time for the world's leaders to strive toward global peace. Today they still serve as the ultimate guarantor of our precious freedoms.

Throughout the County's history, its support for the national security objectives of Los Alamos National Laboratory has never wavered. The success of the lab is completely intertwined with the success and history of the County. As we've advanced toward world peace, admittedly with steps far smaller than all of us would wish, the County has supported dramatic changes at the laboratory, from changing characteristics of our nuclear stockpile to new challenges that the laboratory was called upon to address. For example, in 1949, most of the non-proliferation and environmental challenges that the lab addresses today did not exist.

I believe it is also important to note on this anniversary that the time of the closed secret city has long passed, and Los Alamos County has now become a community open to scientific and economic growth and cultural diversity. Today, the lab and the surrounding County are making wonderful strides toward becoming fuller partners in the Española Valley and with all of New Mexico.

Los Alamos County and the laboratory have a wealth of challenges ahead as national priorities are modified to adapt to new global conditions. The future of Los Alamos County should be as bright as its past, and the range of its contributions will continue to be of vital importance in guaranteeing the nation's freedoms.●

CONGRATULATIONS TO BOY SCOUT TROOP 33

● Mr. WELLSTONE. Mr. President, one of the oldest boy scout troops in the country, Troop 33 of Minneapolis, Minnesota, is celebrating its eightieth anniversary with a trip to Washington, D.C. to learn about U.S. government. Founded in 1918, Boy Scout Troop 33 has served its community for three generations and produced 269 Eagle Scouts. Troop 33 has conducted extensive service projects, including: flood relief sandbagging in Fargo, North Dakota; collecting food and clothes for the poor; severe tornado damage cleanup in St. Peter, Minnesota; leading bingo games for veterans; volunteering at an AIDS house; visiting nursing home residents; entertaining disabled adults; building wheelchair ramps; serving as a color guard at the Chapel at Fort Snelling National Cemetery; and running a blood donation drive at their sponsoring church, Westminster Church of Minneapolis, Minnesota.

The troop has extraordinary long-term continuity. Three families have contributed three generations of Eagles and there are eight father-son combinations on the Eagle list. The troop has also had continuity of leadership, with only seven men serving as Scoutmaster during Thirty-Three's eighty years: Kyle Cudworth, Ted Carlsen, Rich Wheaton, Stan Moore, Bill Braddock, Karl Ostlund, and Dave Moore.

Troop 33's current Scoutmaster, Dave Moore, has served as Scoutmaster to over 1,150 scouts over the course of 33 years, representing over 3,000 boy-years in scouting. Now in his fiftieth year of scouting, Mr. Moore, who joined the Troop at age 12, has helped his boys to earn 2833 ranks, including 130 Eagles, and over 5,900 merit badges. Mr. Moore has helped thousands of young people to discover the enjoyment that comes from service and to dedicate themselves to building strong communities.

Over the years, the troop has received numerous honors and awards. Leaders have earned the prestigious Silver Beaver Award, the Eagle-to-Eagle Award, and the This-is-Your-Life Award. On the national level, their scouts have received the Whitney Young Award and the George Meany Award. Also, former Scoutmaster Ted Carlsen received the national Silver Buffalo Award in recognition of his many years of service to scouting at the Troop, council, and national levels.

The achievements and dedication of Troop 33 exemplify the value of scouting as a learning experience, aiding boys in acquiring leadership abilities, recognizing the responsibilities of citizenship, and contributing to the community.●

TRIBUTE TO CLARENCE LIEN

● Mr. GRAMS. Mr. President, I rise today to pay tribute to Clarence Lien of Forest Lake, MN. On June 7, 1999, I had the great honor of presenting a much-belated Purple Heart to Clarence. He is most deserving of this long overdue recognition. I, therefore, take this opportunity to congratulate Clarence and thank him for his service and sacrifice. President Ronald Reagan said, ''Freedom is not something to be secured in any one moment of time. We must struggle to preserve it everyday. And freedom is never more than one generation away from extinction.'' We must always remember the great debt of gratitude we owe to those like Clarence who have served our country in the Armed Forces, protecting the freedom we all too often take for granted. Again, congratulations, Clarence. I salute you.●

TRIBUTE TO DON CHILDEARS

● Mr. ALLARD. Mr. President, I would like to join the Colorado banking industry in saluting an outstanding member of the Colorado community, Don Childears, President/CEO of the Colorado Bankers Association. Mr.

Childears, a native of Colorado, born in Saguache, received his undergraduate degree from Colorado State University and his Juris Doctor from the University of Denver, College of Law.

For over 25 years, Mr. Childears has worked tirelessly building alliances between bankers, community leaders, and legislators. As the voice of commercial banking in Colorado, Don has effectively and faithfully championed the vital role of banking in our economy on both a national and state level.

As a national leader in banking, Don chaired the American Bankers Association (ABA) State Association Division in 1991–1992; he assumed the post of Vice Chairman of this division the previous year. As Chairman, he guided the representation of all state bankers associations in the United States. Don was also Chairman of the ABA Regulatory Burden Task Force from 1992–1994 and was given the honor of addressing the General Session of the ABA's Annual Convention and Banking Industry Forum in Boston during 1992. Don was the only state association executive to have done this in 17 years. This year, Don was asked by the Governor of Colorado, Bill Owens, to serve on Colorado's Task Force on Y2K Preparedness.

Don has served educational institutions as a Trustee for both the Graduate School of Banking at Colorado, University of Colorado, University of Colorado, Boulder, and the Graduate School of Banking, University of Wisconsin-Madison, since 1980. As a banking spokesman, Don has always made himself available to public speaking opportunities, which has included everything from teaching courses on government, political influence, and banking at the Graduate School of Banking at Colorado to addressing civic groups of all sizes and descriptions on a variety of topics. He has also been heavily involved in various charitable fundraising and political campaign committees across the state.

The recognitions and awards that have been bestowed upon Don are many, as you may have gathered. He is a leader in his community on many different levels. Beyond that, though, Don is an invaluable resource to the banks of our nation, and in particular in my state of Colorado. I am proud to call Don Childears my friend and to recognize his efforts.●

ORDER FOR STAR PRINT—S. 707

Mr. JEFFORDS. Mr. President, I ask unanimous consent that S. 707 be star printed with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF LEGAL REPRESENTATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 123, submitted earlier by Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 123) to authorize representation of Members of the Senate in the case of Candis Ray v. John Edwards, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, in 1977, Candis Ray, who operated a tour business in Washington, brought an action against Senator Proxmire and Ellen Proxmire, the Senator's wife. The plaintiff claimed that Senator and Mrs. Proxmire had tortiously interfered with her business in order to favor Mrs. Proxmire's competing tour business. One of the plaintiff's claims was that Senator Proxmire had helped to arrange for Senate rooms for his wife's tours. In affirming the district court's dismissal of the complaint, the court of appeals observed that, to the extent that an issue had been raised about compliance with the Senate's rules on use of its facilities, ''[t]he judicial function is not implicated at all, for only in the Senate forum can observance of the rule be compelled.'' *Ray* v. *Proxmire*, 581 F.2d 998, 1002 (D.C. Cir.), *cert. denied*, 439 U.S. 933 (1978).

In the two decades since that decision, Ms. Ray has launched a barrage of civil lawsuits, seeking to obtain damages in connection with this matter, against the Senate, individual Senators, and Senate employees, federal judges and government attorneys who have been involved in her prior lawsuits, and the President. In 1989, Ms. Ray sought to hold Senator Heflin, Sanford, Stennis, and Wallop, as well as an employee on Senator Sanford's staff and the Senate itself, accountable for the Senate's lack of favorable action on her complaints and petitions for financial payment. The Senate Legal Counsel obtained the dismissal of that action.

The plaintiff has now filed her fifth lawsuit related to this matter, this time against Senator LOTT and Senator EDWARDS, her home-state Senator. The lawsuit again seeks to hold the Senators responsible for the lack of favorable action on her demands for payment from the Senate.

The resolution would authorize the Senate Legal Counsel to represent Senator LOTT and Senator EDWARDS and to move to dismiss the complaint.

Mr. JEFFORDS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 123) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 123

Whereas, in the case of *Candis O. Ray* v. *John Edwards, et al.*, Case No. 99–CV–1104–EGS, pending in the United States District Court for the District of Columbia, the plaintiff has named as defendants Senator Trent Lott and Senator John Edwards;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Lott and Senator Edwards in the case of *Candis O. Ray* v. *John Edwards, et al.*

ORDERS FOR WEDNESDAY, JUNE 16, 1999

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Wednesday, June 16. I further ask that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. JEFFORDS. For the information of all Senators, tomorrow the Senate will convene at 10 a.m. and, by previous consent, begin 15 minutes of debate on S. 1205, the military construction appropriations bill. Immediately following that debate, the Senate will begin 20 minutes of debate on S. 331, the work incentives legislation. Upon completion of debate on these two bills, the Senate will begin a series of stacked votes. Therefore, Senators can expect the first of two votes to start at approximately 10:40 a.m. on Wednesday.

Also by previous consent, following the series of stacked votes, the Senate will debate the motion to invoke cloture on the House lockbox legislation for 1 hour, with that cloture vote to begin after all time has expired or been yielded back.

Assuming cloture is not invoked, the Senate will turn to H.R. 1664 regarding steel, oil, and gas appropriations, with amendments in order. It is also hoped that the Senate will be able to complete action on the energy and water appropriations bill during the morning session of the Senate.

If there is no further business to come before the Senate——

The PRESIDING OFFICER. There is objection heard to the motion to adjourn.

Mr. DASCHLE. Mr. President, reserving the right to object, I had intended, at the request of the Senator from Wisconsin, Mr. FEINGOLD, to object to the request earlier made by the Senator from Vermont having to do with the schedule tomorrow morning. It was the hope of the Senator from Wisconsin that he could have 30 minutes, prior to

the time we begin at 10, for purposes of morning business. I would like to amend the request for that purpose and determine whether or not that could be accommodated.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I amend the earlier unanimous consent request to provide that immediately following the cloture vote on the House lockbox legislation, there then be a period of morning business for 60 minutes, with Senator FEINGOLD in control of 20 minutes, 10 minutes under the control of Senator DASCHLE, and the remaining 30 minutes under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:17 p.m., adjourned until Wednesday, June 16, 1999, at 10 a.m.

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 15, 1999, withdrawing from further Senate consideration the following nomination:

SOCIAL SECURITY ADVISORY BOARD

RICHARD A. GRAFMEYER, OF MARYLAND, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 2000, VICE HARLAN MATHEWS, RESIGNED, WHICH WAS SENT TO THE SENATE ON JANUARY 6, 1999.